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Human rights questions: comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action

Follow-up to the World Conference on Human Rights

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the final report of the United Nations High Commissioner for Human Rights on the implementation of the Vienna Declaration and Programme of Action, in accordance with Assembly resolution 52/148 of 12 December 1997.

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Annex

Report of the United Nations High Commissioner for Human Rights

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I. Introduction

1. On 10 December 1948, the United Nations General Assembly proclaimed the Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations. The Declaration's fiftieth anniversary presents an ideal occasion to place its message again at the centre of the international and national agendas, and to make new commitments aimed at fulfilling its promise for all people. 1998 also marks the anniversary of another watershed in the international promotion and protection of human rights. Five years ago, 171 United Nations Member States participating in the World Conference on Human Rights at Vienna unanimously adopted the Vienna Declaration and Programme of Action. Four sessions of the Preparatory Committee, as well as three regional meetings and hundreds of other pre-Conference meetings had preceded the Conference. In addition, thousands of preparatory documents and position papers, contributions by 95 international organizations, expert bodies, national human rights institutions and approximately 900 non-governmental organizations were considered as part of the World Conference process. The developments of the past five years confirm the overall guidance which the Vienna Declaration and Programme of Action has provided to worldwide efforts for human rights.

2. The World Conference on Human Rights requested the Secretary-General of the United Nations to invite, on the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights, all States and all organs and agencies of the United Nations system related to human rights to report to him on the progress made in the implementation of the present Declaration, and to submit a report to the General Assembly at its fifty-third session, through the Commission on Human Rights and the Economic and Social Council. In addition, regional and, as appropriate, national human rights institutions, as well as non-governmental organizations, were invited to present their views to the Secretary-General on the progress made in the implementation of the Declaration (sect. II, para. 100). The General Assembly, in its resolution 52/148, requested the United Nations High Commissioner for Human Rights to present the final report on the progress made in the implementation of the Vienna Declaration and Programme of Action to the General Assembly at its fifty-third session.

3. The five-year review of the Vienna Declaration and Programme of Action is an important part of the follow-up mechanism to the World Conference on Human Rights, which includes:

(a) Consideration by the General Assembly, the Economic and Social Council, the Commission on Human Rights and other organs and agencies of the United Nations system related to human rights, of appropriate measures to fully implement recommendations contained in the Vienna Declaration and Programme of Action;

(b) The annual review by the Commission on Human Rights of progress made to that end;

(c) Establishment of the United Nations High Commissioner for Human Rights as the official with principal responsibility for United Nations human rights activities under the direction and authority of the Secretary-General (see Assembly resolution 48/141 of 20 December 1993). The overall mandate of the High Commissioner includes the coordination of the implementation of the Vienna Declaration and Programme of Action by the United Nations system;

(d) Participation by the High Commissioner in the process of coordinated follow-up to world conferences and summits established by the Economic and Social Council (see Council resolution 1997/61) and the Administrative Committee on Coordination.

4. The Office of the United Nations High Commissioner for Human Rights (OHCHR) requested all interested parties to submit their contributions to the review process. Reports have been received from the following Governments: Australia, Austria, Bahrain, Belarus, Belgium, Benin, Brazil, Brunei Darussalam, Canada, China, Croatia, Cuba, Cyprus, Czech Republic, Djibouti, Egypt, Finland, France, Germany, Greece, Guatemala, India, Iraq, Ireland, Japan, Kuwait, Libyan Arab Jamahiriya, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Peru, Poland, Republic of Korea, Russian Federation, Spain, Sudan, Sweden, Switzerland, Tunisia, Turkey, Ukraine, United Kingdom, United States of America, Venezuela and Viet Nam. China and Cuba sent their views concerning the review process. The following United Nations bodies have submitted their reports: the Division for the Advancement of Women (DAW), the Department of Public Information (DPI), the Food and Agriculture Organization of the United Nations (FAO), the International Labour Organization (ILO), the United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Centre for Human Settlements (Habitat), the United Nations Centre for International Crime Prevention (UNCICP), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Development Programme (UNDP), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Office of the United Nations High Commissioner for Refugees

(UNHCR), the United Nations Children's Fund (UNICEF), the United Nations Industrial Development Organization (UNIDO), the United Nations Development Fund for Women (UNIFEM), the United Nations Population Fund (UNFPA), the United Nations Volunteers (UNV), the World Food Programme (WFP) and the World Health Organization (WHO). Contributions have been received from the Council of Europe, the Organization of American States and the national human rights commissions of Canada, New Zealand, the Philippines and Zambia. The 1998 Global Non-Governmental Organization Forum on the Vienna Declaration and Programme of Action (Ottawa, 25 and 26 June 1998) submitted its final document as an input to the five-year review. Also, the Dutch section of the International Court of Justice, the Organizing Committee for the International Conference on Human Rights Education in the Asia-Pacific Region (to be held at Osaka, 25–27 November 1998), and the Kensington Welfare Rights Union of Philadelphia sent their comments. All contributions will be available during the fifty-third session of the General Assembly.

5. The reports submitted by Governments in the framework of the present review addressed all aspects of the Vienna Declaration and Programme of Action, and reflected both national and international dimensions of human rights. The substance dealt with in the reports can be categorized as follows:

(a) Views of Governments concerning the role of the Vienna Declaration and Programme of Action: while stressing the need for a balanced approach, the reports usually attach particular importance to some specific aspects of the document;

(b) The presentation of steps undertaken to implement the Vienna Declaration and Programme of Action at both the national and international levels;

(c) Overall comments of Governments regarding the international promotion and protection of human rights.

In the light of the available reports, the following positive developments can be highlighted: human rights-oriented changes in national legislation; enlargement of national human rights capacities, including the establishment or strengthening of national human rights institutions; special protection extended to women, children and vulnerable groups; development of human rights education programmes; and adoption of national plans of action.

6. The initial evaluation of the implementation of the Vienna Declaration and Programme of Action was undertaken by the Commission on Human Rights at its fifty-fourth session, on the basis of the interim report entitled "Five-year review of the implementation of the Vienna Declaration and Programme of Action" (E/CN.4/1998/104) submitted by the United Nations High Commissioner for Human Rights. The Economic and Social Council devoted the coordination segment of its substantive session of 1998 to the coordinated follow-up to and implementation of the Vienna Declaration and Programme of Action (see Council decision 1998/208). The Secretary-General's report (E/1998/60), which was prepared within the framework of inter-agency consultations organized by the United Nations High Commissioner for Human Rights in 1997 and 1998, provided the basis for discussion. The agreed conclusions of the Council reflect examination of: (a) methods of achieving a system-wide approach to human rights; (b) inter-agency cooperation and coordination to achieve better results in the implementation of the Vienna Declaration and Programme of Action; (c) examples of best practices by the United Nations system in the implementation of the Vienna Declaration and Programme of Action; and (d) areas of responsibility in which efforts should be made to implement fully the Vienna Declaration and Programme of Action. The review carried out by the Council indicates a growing involvement on the part of agencies and programmes in activities relevant to human rights (see also para. 25 below).

7. The World Conference on Human Rights focused specific attention on recommendations intended to strengthen the structural capacities of the United Nations human rights system. The Vienna Declaration and Programme of Action makes particular reference to the necessity for a continuing adaptation of the United Nations human rights machinery to the current and future needs in the promotion and protection of human rights (sect. II, para. 17). Several steps have been undertaken to follow this recommendation, including the restructuring of the relevant part of the Secretariat. With a view to enhancing their effectiveness, the Commission on Human Rights, in its decision 1998/112, decided to appoint the Bureau to undertake a review of its mechanisms. The Bureau will make its recommendations to the Commission at its fifty-fifth session. A special task force responsible for the analysis of the human rights machinery established within the Office of the United Nations High Commissioner for Human Rights (OHCHR) cooperates closely with the Bureau of the Commission. Taking into account these recent developments, the present report will not address this issue comprehensively.

8. Also with reference to the reform of the human rights machinery, the Vienna Declaration and Programme of

Action called for consideration of the establishment of the post of High Commissioner for Human Rights (sect. II, para. 18). On 20 December 1993, the General Assembly unanimously adopted resolution 48/141, in which it created this post. Mr. José Ayala Lasso, the Permanent Representative of Ecuador to the United Nations in New York, was appointed as the first United Nations High Commissioner for Human Rights. On 12 September 1997, Mrs. Mary Robinson, the President of Ireland, began her tenure as the High Commissioner for Human Rights. Contributions to the five-year review have suggested that the decision of the General Assembly to create the post of High Commissioner could justifiably be considered as one of the most important results of the Vienna Conference.

9. The present report, together with contributions submitted by States, components of the United Nations system, regional organizations, national institutions and non-governmental organizations, presents a general overview of relevant activities, and should facilitate the analysis of the implementation of the Vienna Declaration and Programme of Action by the General Assembly. In order to obtain more detailed information, the reports of the Secretary-General and the United Nations High Commissioner for Human Rights, as well as reports of treaty bodies and special procedures established by the Commission on Human Rights, which as a rule are submitted annually to the General Assembly and the Commission on Human Rights, should be consulted. Since the Secretary-General's report to the Economic and Social Council and agreed conclusions of the Council dealing with the United Nations system contribution have been made available to the General Assembly, the present report attaches greater emphasis to other aspects of the implementation of the Vienna Declaration and Programme of Action, in particular to measures undertaken at the national level.

II. Universality of human rights

10. The World Conference on Human Rights not only reaffirmed the universality of human rights and the related commitments of States but also unanimously endorsed the universality of all the basic principles that should guide the promotion and protection of human rights worldwide. Since the World Conference, the international community has continuously reiterated the validity of the universality of human rights, recognizing that although the significance of national and regional particularities, as well as various historical, cultural and religious backgrounds, must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.

11. The universal ratification of relevant international instruments called for by the World Conference would provide the most stable and effective foundation for ensuring respect for and observance of human rights in all countries. The World Conference specifically recommended that in the framework of the five-year implementation review of the Vienna Declaration and Programme of Action, progress towards the goal of universal ratification of international human rights treaties should be addressed (sect. II, para. 100). Five years later, an increase of nearly 28 per cent of new ratifications can be noted (see figure I).

12. The number of countries which have not ratified the core human rights treaties remains, however, distressing. Almost one third of all countries have not acceded to the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights. More than 40 countries continue to have difficulties in ratifying the International Convention on the Elimination of All Forms of Racial Discrimination. Although it is encouraging that over 30 States have ratified or acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since 1993, it is, however, a cause of serious concern that almost half of the United Nations Member States are not parties to this Convention which prohibits torture, one of the most atrocious violations against human dignity. Equally disappointing is the fact that eight years since its adoption by the General Assembly, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families has only nine States parties, less than half of the ratifications necessary for it to enter into force. Progress in adhering to the existing optional communication procedures is also not satisfactory (see figure II). This is regrettable since access to these procedures makes the respective human rights treaties living law for the people who claim that their rights have been violated.

13. Unfortunately, declarations announcing withdrawals from treaty obligations have also been noted. Although isolated, these declarations are particularly disappointing since they oppose the general understanding of the World Conference that countries should take bold steps to strengthen their commitments under international human rights law.

14. The call of the World Conference to avoid, as far as possible, the resort to reservations to international human rights instruments (Vienna Declaration and Programme of Action, sect. I, para. 26 and sect. II, para. 5), must be noted

as another area in which results have been less than satisfactory. Many new ratifications have been accompanied by substantive reservations, and few reservations made previously have been withdrawn. This observation also applies to the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, notwithstanding the Vienna Declaration and Programme of Action's explicit statement of concern about the scope of reservations to these two treaties (sect. II, paras. 39 and 46).

15. The General Assembly and the Commission on Human Rights have systematically reiterated the call for universal ratification of human rights instruments. The Secretary-General and the United Nations High Commissioner for Human Rights launched in 1994 and 1997 campaigns to that end by sending letters to all heads of State, prime ministers and foreign ministers. In the context of preparations for the 1998 commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights, the Inter-Parliamentary Union adopted a special resolution on 16 September 1997, calling on all Parliaments and their members to strengthen the impact of international human rights law on domestic legal systems, through, *inter alia*, the ratification of still outstanding treaties, as well as ensuring the consistency of national legislation with international human rights standards. In connection with this resolution, the High Commissioner wrote to all the world's Parliaments, calling for the universal ratification and implementation of human rights instruments.

16. With a view to facilitating the ratification process and the fulfilment of commitments under ratified treaties, the Office of the High Commissioner for Human Rights offers technical assistance at the request of States. Two regional meetings of high-level government officials have been organized since the World Conference to discuss various aspects of the human rights treaty system. The meetings were held for the African and Asia and Pacific regions at Addis Ababa (14–17 May 1996) and at Amman (1–4 September 1997) respectively.

17. It is vital that the international community reinforces its efforts towards the ratification of international human rights instruments. A commitment to the universal ratification of the main human rights treaties during the next five years would be a decisive step in this important process.

III. International cooperation and coordination of human rights activities

18. Cooperation is a powerful engine of the international system for the promotion and protection of human rights, and thus it is also one of the most important vehicles for improving the human rights record at the national level. The need for cooperation in the field of human rights was emphasized by the Charter of the United Nations and forcefully reiterated by the World Conference throughout the Vienna Declaration and Programme of Action. The General Assembly called upon Member States, intergovernmental organizations and specialized agencies to continue to carry out constructive dialogue and consultations for the enhancement of understanding and the promotion and protection of all human rights and fundamental freedoms, and encouraged non-governmental organizations to contribute actively to this endeavour (see General Assembly resolution 52/134 of 12 December 1997). The High Commissioner has been specifically mandated to act with a view to enhancing such cooperation.

19. While speaking about international cooperation in the field of human rights, the Vienna Declaration and Programme of Action places emphasis on some tenets which are of relevance in this context, including the following: (a) the primary responsibility for the promotion and protection of human rights rests with Governments; (b) the promotion and protection of all human rights is a legitimate concern of the international community; (c) the international community should cooperate towards a better implementation of human rights, prevention of human rights abuses, and eradication of the gravest human rights violations; (d) the international protection and promotion of human rights is effective only if based on the principle of the indivisibility and equal value of all human rights – civil, cultural, economic, political and social, including the right to development; (e) the interdependence between democracy, development and respect for human rights offers a fundamental framework for progress in the field of human rights; (f) the international and regional systems of human rights protection are complementary, and should support each other; and (g) non-governmental organizations should be fully recognized as partners in international cooperation for human rights.

20. The Vienna Conference's focus on international cooperation has produced positive results. A trend can be noted towards broadening the area of international consensus in human rights matters, also regarding some issues which

in the past prompted strong controversies. The fifty-fourth session of the Commission on Human Rights (1998) saw an unprecedented number of decisions outlining action aimed at the realization of economic and social rights. The most noteworthy in this context is the consensus achieved on resolutions concerning the right to development, both in the General Assembly and the Commission on Human Rights. The international reaction to recent initiatives relating to the review of the human rights machinery gives rise to the hope that constructive solutions are also feasible in this complicated area. It is the determined will of OHCHR to actively facilitate and support these encouraging developments.

21. Comments by Governments to the present review emphasize, *inter alia*, (a) the important role of close international cooperation as the framework for progress in the field of human rights; (b) the need for greater effectiveness and efficiency of the international system to promote and protect human rights and for the adaptation of the human rights machinery to evolving needs; (c) the necessity to increase resources earmarked for the United Nations human rights programme to enable, *inter alia*, a prompt response to requests for technical assistance. Critical views on the present status of international cooperation in the field of human rights should also be noted. Some Governments maintain that a biased and politicized attitude to human rights is presented in international forums. The insufficient priority given to various aspects of human rights, resulting in a negative impact, especially on the implementation of economic, social and cultural rights and the right to development, has also been highlighted.

22. A matter of particular concern are cases of inadequate or missing cooperation on the part of some Governments with the human rights machinery. The unwillingness to cooperate with special procedures of the Commission on Human Rights not only hinders the fulfilment of the respective mandates but also deprives Member States of assistance offered by their holders. The Commission on Human Rights and the General Assembly deplore such refusals. Although rare, cases of reprisals against individuals who have cooperated with the United Nations human rights machinery or against holders of United Nations human rights mandates themselves are particularly distressing. The General Assembly and the Commission on Human Rights continue to condemn such cases.

23. Regional organizations are crucial partners in international cooperation for the promotion and protection of human rights. Possibilities for closer elaboration between the United Nations human rights programme and regional organizations still require further exploration and utilization, including in the areas of technical assistance and advisory services, institution-building and human rights education, as well as in the prevention of and response to conflicts. By working together in the framework of specific country projects, international and regional organizations could better utilize resources and more swiftly respond to the needs of Governments and societies. This was also the conclusion of the last periodical meeting of the Secretary-General with the Heads of the regional organizations (27 and 28 July 1998). Numerous examples mentioned in the High Commissioner's reports to the General Assembly and the Commission on Human Rights illustrate progress in the development of cooperation between the United Nations and regional organizations of Africa, the Americas and Europe. They include technical assistance provided by OHCHR (e.g., in the case of the African Commission on Human and People's Rights), as well as situations in which assistance from regional organizations enabled the Office of the High Commissioner to carry out its mandates (e.g., financial support from the European Union for the High Commissioner's operation in Rwanda). The World Conference also reiterated the need to consider the possibility of establishing regional and subregional arrangements for the promotion and protection of human rights where they do not already exist. Discussions concerning regional or subregional human rights arrangements in Asia, in which the High Commissioner participates, continue.

24. The Vienna Declaration and Programme of Action recognized the important role of non-governmental organizations in the promotion and protection of human rights and in humanitarian activities at national, regional and international levels (sect. I, para. 38). The increased multifaceted participation of civil society, in particular non-governmental organizations and the academic community, in the human rights dialogue, in monitoring human rights developments and mobilizing public opinion, and in initiating projects serving human rights, in particular at the national level, should be viewed as lasting achievements of the Vienna Conference process. The Office of the High Commissioner has established close cooperation with non-governmental organizations, which includes programming human rights activities, country visits, meetings of the United Nations human rights organs, and reaction to human rights violations are now established practice. In the promotion of human rights, including human rights education and human rights institution-building, non-governmental organizations are indispensable partners. Regular contacts are maintained with non-governmental organizations at Headquarters and in the field. Non-

governmental organizations are an important source of information for the United Nations human rights machinery. The partnership between the United Nations human rights programme and non-governmental organizations should be further promoted and made more effective, including through participation in the implementation of technical cooperation projects. It is also important that procedures at the national and international levels be reviewed to facilitate the full participation of non-governmental organizations in the work for human rights. Non-governmental organizations, in their comments submitted to the five-year review, welcome the growing recognition by Governments and United Nations bodies of their contribution and urge that civil society organizations and social movements be provided broader access to United Nations policy-making bodies as well as monitoring bodies to enhance the input from civil society to the realization of the interrelated goals of human rights, peace and development. It is pivotal that the United Nations is completing the creation of a framework of principles to protect human rights defenders. Five years after the call by the World Conference for its speedy completion and adoption (Vienna Declaration and Programme of Action, sect. II, para. 94), the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms has been submitted for final adoption by the General Assembly.

25. The World Conference underscored the importance of making human rights a priority objective of the United Nations. In its appeal for a system-wide approach to human rights, the Conference encouraged all relevant specialized agencies and bodies of the United Nations system to take into account its recommendations (Vienna Declaration and Programme of Action, sect. I, para. 4; and sect. II, para. 3). Better intra-system coordination of relevant activities, consistent with international human rights standards, is one of the fundamental themes of the Vienna Declaration and Programme of Action. In his report to the Economic and Social Council (1998 coordination segment), reflecting the contribution by the United Nations system to the implementation of the Vienna Declaration and Programme of Action, the Secretary-General noted that, five years after the World Conference on Human Rights, the ability of the United Nations system to assist Governments and societies in their efforts to ensure human rights for all people had undoubtedly been enhanced. The United Nations system was currently better prepared to respond positively to continuingly growing needs. It was evident that placing the human being and the protection of his/her rights at the centre of United Nations activities was the unifying factor that could bind the work of the United Nations system together towards meeting the goals set by the World Conference on Human Rights and other United Nations conferences and summits. The signs that the process had already begun were encouraging. However, current realities were more than adequate proof of the fact that the international community had not yet been able to utilize the entire potential of Vienna. That comment can be addressed also to our Organization. Therefore, the work of the United Nations system over the next five years should build on the progress achieved to date, as well as take bold new steps to promote and protect the rights of all people. The Vienna Declaration and Programme of Action should guide us in our efforts towards making that imperative a reality (see E/1998/60, conclusions). The Economic and Social Council, at its substantive session of 1998, after examining the coordinated follow-up to the Vienna Declaration and Programme of Action by the United Nations system, adopted comprehensive agreed conclusions, the implementation of which will be analysed at its substantive session of 1999 (see para. 6 above).

IV. Democracy, development and human rights, and the right to development

26. The World Conference forged consensus around the overarching concept of the interdependence and mutual reinforcement between democracy, development and human rights (Vienna Declaration and Programme of Action, sect. I, para. 8). Since 1993, this concept has become a basic guidance for the international human rights system, and has been reinforced through other world summits and conferences, such as the 1995 World Summit for Social Development. Without sustainable development strategies to provide an adequate standard of living for all people and without democratic structures in place through which people can actively participate in the civic life of their communities, human rights cannot be fully realized. At the same time, respect for and observance of human rights is a precondition of sustainable development and democracy (see also chap. XII below).

27. The Vienna Declaration and Programme of Action reaffirmed the right to development as a universal and inalienable right, integral to fundamental human rights. The Commission on Human Rights, at its fifty-fourth session reiterated that the essence of the right to development is the principle that the human person is the central subject of development, and that the right to life includes within it existence in human dignity with the minimum necessities of

life (see Commission resolution 1998/72 on the right to development). The concept of the right to development allows the ties between all rights to be recognized, and enables them to be perceived from the perspective of the individual's participation in sustainable development. Consequently, the right to development includes the place of individuals in society, their participation in running public affairs at national and community levels, their personal, economic and social security, and their capacity to determine and realize their potential.

28. As is the case with all human rights, domestic action is decisive for the implementation of the right to development. Some governmental reports inform about particular initiatives in this context, such as the adoption of national developmental programmes, special projects targeting poverty alleviation in specific areas or with regard to specific groups, and adopting a human rights approach to developmental activities. Several countries also referred to their contributions to multilateral and bilateral developmental cooperation, including provision of assistance, cancelling the accumulated interest on debts owed by developing countries, and professional training for foreign citizens. The Copenhagen Declaration on Social Development and other United Nations documents clearly endorse the principle that each State bears the primary responsibility for its own development. However, sustainable development also requires appropriate international arrangements on the basis of which cooperation and assistance can be offered to countries and societies which need it. The 1995 World Summit for Social Development at Copenhagen, the International Conference on Population and Development at Cairo, the World Food Summit in Rome and the United Nations Conference on Human Settlements (Habitat II) at Istanbul all stressed that the international community cannot limit its assistance to humanitarian aid but should contribute to sustainable development of societies if all human rights, including the right to development, are to be duly implemented.

29. The Commission on Human Rights, in its resolution 1998/72 adopted at its fifty-fourth session, affirmed that although a number of developing countries have experienced rapid economic growth in the recent past and have become dynamic partners in the international economy, the gap between developed and developing countries remains unacceptably wide and developing countries continue to face difficulties participating in the globalization process, so that many risk being marginalized and effectively excluded from its benefits. The Commission also affirmed that democracy had raised development expectations everywhere, the non-fulfilment of which risks the rekindling of non-democratic forces, and emphasized that structural reforms that do not take social realities into account could destabilize democratization processes. It also emphasized that democracy, respect for all human rights and fundamental freedoms, including the right to development, transparent and accountable governance and administration in all sectors of society, as well as effective participation by civil society, are essential parts of the necessary foundations for the realization of social- and people-centred sustainable development. The Commission further emphasized that the participation of developing countries in the international economic decision-making process needs to be broadened and strengthened. Arriving at similar conclusions, the Working Group on the Right to Development established by the Commission on Human Rights in 1995 noted that despite overall global economic growth, 89 countries were at that time in a worse position economically than they were 10 or more years before (E/CN.4/1997/22). An economic growth-centred approach to development is not sufficient to meet the challenge of severe poverty in the world, which affects an estimated 1.3 billion people. The United Nations organs and bodies have emphasized on various occasions that both national-level policies and a conducive international environment are necessary prerequisites for assisting those segments of the population that have been marginalized by the negative impact of globalization and economic adjustment. They have repeatedly addressed the Bretton Woods and other financial institutions involved in developmental projects, in particular in the context of economic adjustment programmes, to recommend that their activities promote the protection of the economically vulnerable.

30. The Commission on Human Rights, in its resolution 1998/24, also called attention to the debt crisis, and emphasized that in order to find a durable solution to the debt problem, there is a need for a political dialogue between creditor and debtor countries within the United Nations system, based on the principle of shared interests and responsibilities. Indeed, a concerted effort is needed to reduce public indebtedness, one of the biggest problems facing developing countries and transition economies. The UNDP *Human Development Report 1997* notes that the debt of the 41 highly indebted poor countries totalled $215 billion, up from $183 billion in 1990 and $55 billion in 1980. The Commission on Human Rights also called on the United Nations High Commissioner for Human Rights to pay particular attention to the problem of the debt burden of developing countries, in particular of the less developed countries, and especially to the social impact of measures arising from foreign debt.

31. In the years to come, a new mechanism established by the Commission on Human Rights in its resolution 1998/72 will monitor and review progress made in the promotion and implementation of the right to development and suggest relevant programmes of technical assistance. This mechanism will consist of an open-ended working group and an independent expert in the field of the right to development.

32. The basic link between democracy, development and human rights requires that all human rights be viewed as universal, interdependent and equally important. This means, however, that particular attention be paid to those rights that are currently inadequately protected: from a global perspective, economic, social and cultural rights still require better determination of their content and strengthening the means and methods of their realization. Therefore, various parts of the United Nations system have recently placed these rights on their agendas. The right to food, adequate housing, health, eradication of extreme poverty and respect for international labour standards (including freedom of association and collective bargaining in the area of labour, freedom from discrimination in labour, elimination of forced labour and exploitive child labour) are also subject to inter-agency cooperation. An integrated approach to all human rights has been adopted, *inter alia*, in the recent UNDP policy document entitled "Integrating human rights with sustainable development". OHCHR has launched a global technical cooperation project to support the implementation of economic, social and cultural rights, and is taking steps to support the Committee on Economic, Social and Cultural Rights. Several seminars have been held to that end, including a recent expert round table on the theme "Benchmarks for economic, social and cultural rights", organized by OHCHR on 26 March 1998. The recommendation by the World Conference to continue the examination of an optional protocol to the International Covenant on Economic, Social and Cultural Rights with a view to establishing a communication procedure has been followed by the Committee on Economic, Social and Cultural Rights. No consensus to begin the drafting process has yet been reached.

33. The Commission on Human Rights, at its fifty-fourth session, created mandates of special rapporteurs and independent experts to address the right to development, the right to education and extreme poverty. This will not only enhance the information necessary for the decision-making process in United Nations organs and bodies but will also help to focus the attention of the international community on these fundamental issues. The United Nations High Commissioner for Human Rights proposed that the General Assembly's Second and Third Committees work jointly to implement the right to development by focusing on the elimination of poverty, with particular emphasis placed on basic security, which is necessary to enable individuals and families to enjoy fundamental rights and assume basic responsibilities.

V. Racism, racial discrimination, xenophobia and other forms of intolerance

34. The prohibition of discrimination is rooted in the equal dignity of all people. The Vienna Conference made it clear that it is not enough to condemn racism, racial discrimination, xenophobia and other forms of intolerance. These deplorable phenomena threaten the harmony and stability of societies, and undermine the values espoused in the Vienna Declaration and Programme of Action. Action at both international and national levels is necessary to eradicate them. Governments, intergovernmental and non-governmental organizations and individuals have their own important responsibilities in this context.

35. Progress during the last five years is symbolized in the collapse of apartheid in South Africa. The Presidency of Nelson Mandela is a personification of a continuous struggle for respect for rights of all people. Several countries have changed their legislation, and have taken additional measures to prevent or stop racial or otherwise motivated discrimination. Examples of such policies include prohibition of the incitement of racial hatred; combating racist organizations; steps to halt the proliferation of hate propaganda on the Internet; penal regulation to punish discriminatory behaviour, hate crimes, and racial violence; and regionally based monitoring centres to combat racism and xenophobia. Special attention has been paid to education for tolerance and against discrimination. In many countries, special institutions have been created to develop programmes against bigotry and racism. An interesting example in this regard can be seen in the establishment of youth forums to counter xenophobic attitudes and racially motivated violence among young people. Special programmes have also been implemented to demonstrate the value of capitalizing on linguistic and cross-cultural skills in the market and workplace.

36. Racism and racial discrimination continue to be high on the agenda of the General Assembly, the Commission on Human Rights and other United Nations organs and bodies. The Third Decade to Combat Racism and Racial

Discrimination (see Assembly resolution 48/91) was proclaimed in 1993 to provide a framework for supporting national and international efforts to combat racism. 1995 was proclaimed the International Year of Tolerance (see Assembly resolution 48/126). The General Assembly adopted a draft model national legislation for the guidance of Governments in the enactment of further legislation against racial discrimination (see Assembly decision 48/426). The Commission on Human Rights, at its forty-ninth session, decided to appoint a Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. OHCHR organized, *inter alia,* several seminars to promote the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and support activities against new forms of racial discrimination, including in the context of migration. The United Nations Voluntary Fund for the Programme of Action of the Third Decade to Combat Racism and Racial Discrimination has played an important role in this context through support for studies, workshops, and seminars. Regrettably, the level of contributions to this Fund has been decreasing (see figure III).

37. Measures undertaken at international and national levels to combat racial and other forms of discrimination have unfortunately not produced satisfactory results to date. Examples of genocide originating in racial and ethnic tensions, waves of refugees and internally displaced persons following ethnic cleansing or similar practices have all taken place since the World Conference on Human Rights. The rise in xenophobic and racially motivated acts of violence continues to plague people in all parts of the globe. They are urgent reminders to the international community that reinforced efforts must be made to stop these abhorrent violations of human rights.

38. Penal measures are not sufficient to effectively act against racial and other forms of discrimination and violence. The eradication of such violations depends primarily on internalization by future generations of the culture of human rights. Educational programmes to promote racial and religious harmony, community programmes to overcome mutual distrust, youth exchange programmes, technical cooperation to assist in law reforms and establishing appropriate institutions and procedures are examples of activities that should be developed worldwide. New manifestations of racism and other forms of intolerance require further research and elaboration of appropriate policies. Early warning should be followed by early action to prevent the outbreak of conflicts.

39. The Programme of Action for the Third Decade to Combat Racism and Racial Discrimination should be reinvigorated and involve not only governmental agencies but wide circles of civil society. This is not just the responsibility of public officials – all members of society should contribute to that end. The Programme outlines, *inter alia,* educational and promotional activities, as well as advisory services and technical assistance concerning various aspects of racism, racial discrimination and xenophobia, including the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. To realize this Programme, national and international actions should be combined. The planned World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance, to be held not later than the year 2001, should give a strong impetus to making the next century free of these phenomena.

VI. Equal status and human rights of women

40. The equal status and human rights of women has gained new momentum in the 1990s. The World Conference on Human Rights recognized the human rights of women and girls as an inalienable, integral, and indivisible part of universal human rights (Vienna Declaration and Programme of Action, sect. I, para. 18; and sect. II, pars. 36-44), and called on Governments and the United Nations to recognize their implementation as a priority task. The Fourth World Conference on Women held in Beijing in 1995 reaffirmed, refined and expanded further the recommendations made in the Vienna Declaration and Programme of Action.

41. Many States have strengthened the ability of women to exercise their rights. Steps have been taken by Governments to better reflect these rights in national law. In addition, some countries have lifted reservations to the Convention on the Elimination of Discrimination against Women. Several States have embarked on national plans of action that espouse the goal of gender equality by the year 2000. Measures at the national level have also included changes in constitutional and penal laws prohibiting domestic violence, sexual assault and female genital mutilation; enactment of emancipation policies; and the establishment of governmental structures responsible for the management of gender-oriented policies. New laws have been adopted to promote the political advancement of women and support the employment of women in public service. Changes in family law have established additional protection for women against economic discrimination in cases of divorce. The creation of various female education programmes has been widely recognized to be one of the

most fundamental means of increasing the overall welfare of women and thus the entire community. Education empowers women with the knowledge, skills and resources necessary to improve their lives. Priority should be given to eliminating the social and cultural barriers that continue to exclude women and girls from regular education programmes.

42. Despite such examples of progress, women continue to be disproportionately subjected to violations of human rights. From domestic violence to brutalization in war, from harmful traditional practices to outright female infanticide, the status quo remains intolerable. Unequal access and discrimination in the allocation of economic and social resources results in the direct denial of women's economic, social and cultural rights. Those with specific needs are subject to further marginalization due to such barriers as race, language, ethnicity, culture, religion, disability, class or status. Women are often deprived of access to paid work, which is crucial to achieving self-reliance and improving living conditions of their families. Gender violence and discrimination against women must no longer be tolerated in silence or go unpunished. To continue this degrades not only women but also all of humankind.

43. The United Nations response to these challenges is based on the programme of mainstreaming a gender dimension in all the areas of the Organization's activities, as called for by the Vienna and Beijing Conferences (see E/CN.6/1997/2). In this process, specific gender-related recommendations of the Vienna Declaration and Programme of Action are being implemented. In 1994, the Commission on Human Rights appointed a Special Rapporteur on Violence against Women, representing the first and to date the only investigatory procedure with a mandate specifically concerning women. The other special procedures and mechanisms are also increasingly integrating a gender perspective into their work by providing information in their reports on violations of women's human rights. For example, the Special Rapporteur on the situation of human rights in the territories of former Yugoslavia dealt with the use of rape as a weapon of war, and the Special Rapporteur on the sale of children, child prostitution and child pornography has examined the impact of the media on the commercial sexual exploitation of children, particularly the girl child. Developing a gender-sensitive methodology that includes fact-finding will be an essential step in this process.

44. The Office of the United Nations High Commissioner for Human Rights and the Division for the Advancement of Women, the Commission on the Status of Women and the Committee on the Elimination of Discrimination against Women have developed close cooperation. A revised joint work plan between the Division and the Office has been agreed. During the fifty-fourth session of the Commission on Human Rights, a special dialogue on gender and the human rights of women was held, which included the participation of the Chairperson of the Commission on the Status of Women, the United Nations High Commissioner for Human Rights and the Special Rapporteur on Violence against Women, and Government and non-governmental organization representatives. It is hoped that such dialogues will strengthen the work of organs and bodies involved through the greater sharing of information and expertise.

45. In addition to the specific mandate of the Committee on the Elimination of Discrimination against Women, other human rights treaty bodies are also giving increased attention to the issue of the equal status and human rights of women. Their chairpersons are now in the process of planning a seminar that will consider how gender issues can be incorporated in the general comments, recommendations and guidelines of the treaty bodies. The Committee on Economic, Social and Cultural Rights has already amended its guidelines for reports from States parties to include gender-related information.

46. The calls of the World Conference on Human Rights and the Fourth World Conference on Women for the universal ratification of the Convention on the Elimination of All Forms of Discrimination against Women by the year 2000 have both had an impact on the acceleration of the ratification process. Nevertheless, in addition to the above-mentioned problem of widespread reservations (see para. 14 above) the current number of 161 States parties merits concern. Additional efforts are necessary if the goal of universal ratification is to be accomplished by the year 2000. The Vienna Declaration and Programme of Action also requested the Commission on the Status of Women and the Committee on the Elimination of All Forms of Discrimination against Women to consider the preparation of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women for the right of petition (sect. II, para. 40). The Working Group of the Commission on the Status of Women established to draft this protocol has made considerable progress.

47. Further worldwide efforts to improve the situation of women are necessary. Women's human rights are the responsibility of all: Governments, international organizations and civil society. A particular contribution can be expected from non-governmental organizations involved in gender-related issues, which during the Vienna and Beijing Conferences proved that the input from civil society and its organizations are essential factors in the human rights efforts of the international community.

VII. Rights of the child

48. Millions of victims of human rights violations are children. Although the importance of protecting children is a matter of global consensus, children continue to be the most vulnerable sector of society, particularly in situations of conflict or other emergencies. Recognizing the enormous challenges in the protection of children's rights, the World Conference encouraged States to renew their commitment and dedication to safeguarding the dignity of all children, and to undertake measures for ensuring the survival, protection, development and participation of children. It also recommended that national and international mechanisms and programmes be strengthened to that end (Vienna Declaration and Programme of Action, sect. I, para. 21; sect. II, paras. 45-53).

49. In response to the World Conference's call for its universal ratification by the year 1995, the Convention on the Rights of the Child has nearly achieved this goal (191 ratifications). This quasi-universal ratification of the Convention succeeded in reversing the traditional "invisibility" of children on the international agenda. Today, increased attention is paid in many countries to children and their status as human beings with full rights. *Inter alia,* this development has found its formal expression in legal reforms carried out by States Parties in conformity with the principles and norms of the Convention, which include the establishment of extraterritorial laws designed to punish those who engage in the sexual exploitation of children abroad, the prohibition of practices that harm the girl child, changes in the treatment of child refugee claimants and changes in family law such that the child's welfare is protected in situations of divorce. Such changes have an important impact on family attitudes, education policy, professionals working with and for children, the media and decision makers. The Convention on the Rights of the Child also served as an important guide for the adoption, by the Hague Conference on Private International Law, of new standards for the protection of children.

50. Achievements at the national level also include the creation of institutions set up specifically for the protection of children, such as ombudspersons for children; civil liberties commissions for the rights of the child; national programmes on the rights of the child, as well as child welfare societies; and the establishment of municipal youth councils. Improvements have been made in expanding access to health care and education. Steps have been taken to cut infant and maternal mortality. Since 1985, 2.5 million young lives have been saved through low-cost health programmes. There has also been a great increase in the proportion of girls enrolled in schools in developing countries. Seemingly simple initiatives can produce important results, as in the cases of placing children's libraries in local communities or organizing school lunch programmes.

51. In developing a system-wide approach to the rights of the child, OHCHR is cooperating closely with UNICEF, which has based its entire programme of activities on the Convention on the Rights of the Child. In this framework, a plan of action to strengthen the implementation of the Convention is being implemented. The purpose of this plan, for which contributions from States parties to the Convention have been received, is to provide substantive support to the work of the Committee on the Rights of the Child with the States parties' reporting process, and to assist, where necessary, in transforming recommendations into reality through the provision of adequate resources, coordination with partners within the United Nations system and non-governmental organizations, as well as other follow-up.

52. In spite of the efforts already made, movement from commitment to action remains crucial for improving the lives of the world's two billion children. Negative effects of poverty and structural adjustment; high infant mortality rates; malnutrition; child trafficking, sexual exploitation and bonded labour; inadequate health services and poor school attendance; persistent discrimination and cultural practices that harm the girl child; insufficient supplies, access to or services for children in war zones; and a lack of recourse for the complaints of children: these are only some of the obstacles to be removed if the human rights of children are to be effectively protected.

53. Slavery continues to mark its scourge in the form of millions of child labourers, who are often themselves trafficked and sold into the most deplorable conditions. Lingering poverty and a lack of political will has forced millions of children into an existence marred by sexual slavery or ceaseless toils in unspeakable conditions. Children in these circumstances are abused and victimized, with little hope of a better future. The international community must do more to ban the most hazardous forms of child labour and guarantee universal primary education to all children. The Working Group of the Commission on Human Rights is continuing to draft an optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Reinforcement of existing efforts to prevent and combat the trafficking of women and children has become one of the main objectives of the Office of the United Nations High Commissioner for Human Rights. The United Nations Voluntary Trust Fund on Contemporary Forms of Slavery was launched in 1991 to provide financial assistance to

organizations that work in this area. However, only US$ 18,000 were available as of 31 August 1998. An estimated amount of US$ 130,000 per year is needed for the Fund to fulfil its mandate.

54. An intolerable status quo remains for children living in war-torn societies. In the past decade, some 2 million children have been killed, 4 to 5 million disabled, 1 million orphaned and 12 million left homeless (see UNICEF, *1997 Progress of Nations*). Addressing this terrible legacy of violence for the child survivors of war zones should include the implementation of programmes that focus on the physical and mental rehabilitation of children who have suffered the consequences of war. Prevention demands the universal ratification of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction. The practice of recruiting child soldiers into armies and militias must also be condemned. Finally, it is crucial that States seriously consider diverting military spending in favour of programmes that will improve the welfare of children. Special mention should be made of the study on the impact of armed conflict on children, undertaken at the request of the Committee on the Rights of the Child. The study process and follow-up activities by the Special Representative of the Secretary-General on Children in Armed Conflict have illustrated the effective interaction between international intergovernmental, non-governmental organizations and academic institutions in the area of children in especially difficult circumstances. After four sessions, the Working Group established by the Commission on Human Rights to draft an optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict with a view to raising the minimum age of recruitment continues its work.

55. From the experience gathered by the Committee on the Rights of the Child in its dialogue with Governments, a wide range of measures have been identified that would improve national implementation of the rights of the child. These include advice and assistance to Governments in respect of law reform, the establishment or strengthening of coordinating and monitoring mechanisms, awareness-raising and information campaigns on the Convention, education and training programmes, efforts to combat child exploitive labour and sexual exploitation, improving access to and the contents of education, and the administration of juvenile justice. A concerted effort is required among States, civil society and intergovernmental institutions in order to further initiatives that focus attention on children's issues. Ensuring the effective implementation of the Convention on the Rights of the Child and maintaining the pledges made since the 1990 World Summit for Children and the Vienna Conference are global tasks. Children themselves should also be included in these efforts since they are the ones who must seize, nourish, defend and realize their rights for their generation and those to follow.

VIII. Special protection

Rights of indigenous peoples

56. The Vienna Declaration and Programme of Action calls upon Governments to recognize the value and diversity of indigenous people's cultures and social organization. It reaffirms their unique contribution to the development and plurality of society (sect. I, para. 20; and sect. II, paras. 28-32). Positive steps have been made by several Governments to recognize through legislative means the distinctive identity of indigenous communities and to promote and protect the rights of indigenous people. In some countries, strategies have been designed to remould the relationship between Governments and indigenous populations. Several countries have introduced autonomous institutions, as well as other programmes specifically intended for indigenous people at the local and regional levels, including in such areas as education and language programmes. Governmental structures have also been established to assume responsibility for handling indigenous issues. In some cases, specific grievances and disputes have been mediated or are in the process of mediation. Some Governments also report on their involvement in the preservation of rainforests. Nevertheless, a great deal remains to be done in order to resolve the outstanding issues affecting indigenous people, including the crucial issue of land. National economic development can exert pressure on territory still in the hands of indigenous people. This could have adverse effects on the economies, habitats and social, religious and cultural life of indigenous people. A number of Governments have responded to this problem through dialogue with indigenous people.

57. The Working Group established by the Commission on Human Rights to review the draft United Nations declaration on the rights of indigenous peoples adopted by the Subcommission on the Prevention of Discrimination and Protection of Minorities continues its work. Indigenous participation in the work of the United Nations system has increased: 15 indigenous organizations currently have consultative status with the United Nations Economic and Social Council. Two workshops (at Copenhagen in June 1996 and Santiago in June 1997) have also dealt with the matter of the establishment of a permanent forum for

indigenous peoples within the United Nations system. To date, no clear consensus has emerged on the terms of reference for such a forum. Recently, the Commission on Human Rights authorized the establishment of an open-ended inter-sessional ad hoc working group to elaborate and further consider proposals relating to this subject (see Commission resolution 1998/20). Meanwhile, the Working Group on Indigenous Populations of the Subcommission on the Prevention of Discrimination and Protection of Minorities has developed into an annual platform for the exchange of views and experiences, which is now one of the largest international human rights gatherings. The Voluntary Fund for Indigenous Populations has provided resources for the participation by representatives of indigenous communities in the Working Group.

58. The International Decade of the World's Indigenous Peoples (1994–2003) offers a framework for programmes and activities to improve the conditions of indigenous peoples in such areas as health, education, development and human rights (see E/CN.4/1998/107). These include an indigenous fellowship programme, small grants for indigenous organizations and a series of workshops on indigenous issues. The United Nations Voluntary Fund for the Decade of the World's Indigenous People provides financial support to these activities (see figure III).

59. Recommendations of immediate priority should include adopting the Declaration on the Rights of Indigenous Peoples by the end of the Decade; continuing contributions to the Voluntary Fund for the Decade of the World's Indigenous Peoples; working towards the possible establishment of a permanent forum on indigenous peoples within the United Nations system; and establishing strategies designed to improve relations between States and indigenous peoples.

Rights of persons belonging to national or ethnic, religious and linguistic minorities

60. The World Conference on Human Rights urged Governments to promote and protect the rights of persons belonging to minorities, and to facilitate their full participation in the social, economic, cultural and religious life of society. Governments, in accordance with the 1992 Declaration on the Rights of Persons belonging to Minorities, have focused on legal and institutional measures to protect the cultural, religious and linguistic integrity of minorities, ensure the participation of minorities in decision-making concerning questions involving their status, and to promote minority development. Several new constitutions ensure the protection of minorities. Laws concerning the status of minorities and the rights of their members have been enacted. School instruction in minority languages has been expanded. Policies of support to projects aimed at the preservation of cultural heritage, as well as special measures to reduce unemployment among minorities, have been adopted. Some Governments have established specialized institutions to deal with minority issues, which include representatives of minorities. A number of countries also report that they have ratified the Council of Europe Framework Convention for the Protection of National Minorities.

61. It can be generally stated that the transition to democracy usually has a positive impact on the resolution of minority issues. It is also encouraging to note that protection of minorities is increasingly subject to bilateral and regional treaties and agreements. OHCHR provides assistance in drafting laws designed to protect and promote the identity and characteristics of minorities, and has also been involved in organizing training seminars on the rights of persons belonging to minorities and workshops on peaceful resolution of conflict involving minorities. Inter-agency consultations on minority issues have also been initiated by OHCHR with a view to enhancing such networks of exchange.

62. The Subcommission's Working Group on Minorities, established in 1995, has increasingly become a forum for dialogue between its members, Governments, non-governmental organizations and representatives of minorities. It has developed suggestions for future action that could revolve around (a) dissemination of information on successful measures adopted to promote and protect the rights of persons belonging to minorities, (b) advisory services and technical assistance in minority-related issues, (c) publications of human rights materials in minority languages, and (d) incorporation of training on the rights of persons belonging to minorities within the United Nations Decade for Human Rights Education.

63. In too many cases, however, minorities encounter problems that have often led to serious conflicts in the past. Refusal of the recognition of the needs of minorities by Governments, inadequate laws and policies protecting minorities, discrimination against minorities and intolerance should all be mentioned in this context. Resolution of these problems would be strongly facilitated by the recognition of the role of minorities in the cultural enrichment of the society.

Rights of internally displaced persons

64. The World Conference on Human Rights called for lasting solutions to questions related to internally displaced persons (IDPs), including their voluntary and safe return and rehabilitation (Vienna Declaration and Programme of Action, sect. I, para. 23). Unfortunately, five years later, this phenomenon continues to be one of the major challenges confronting the international community. The number of IDPs has now reached between 25 and 30 million. At the moment, the United Nations is monitoring serious problems of internal displacement in more than 35 countries.

65. The Secretary-General's Representative on Internally Displaced Persons has maintained a continuous dialogue with Governments (see E/CN.4/1996/52, paras. 34-44). He has called for a range of activities that will require the commitment of the entire United Nations family to implement. Among others, they include disseminating the normative standards on internal displacement and promoting their use by Governments, international organizations and non-governmental organizations; training of United Nations staff members on internal displacement; monitoring problems of internal displacement; and establishing an institutional framework that could effectively promote and protect the human rights of IDPs. The Representative has also emphasized the importance of system-wide cooperation to eliminate the root causes of displacement and to assist victims. In accordance with a request made by the Commission on Human Rights, the Representative has developed a framework for the protection of displaced persons, as well as the Guiding Principles on Internal Displacement (see E/CN.4/1998/53/Add.2). The purpose of the Guiding Principles is to address the specific needs of IDPs worldwide by identifying rights and guarantees relevant to their protection. The Principles reflect and are consistent with international human rights law and international humanitarian law. It should also be noted that the World Bank has included the reintegration of displaced persons among the components of its new area of activity in post-conflict reconstruction. In cooperation with other components of the United Nations system, OHCHR is focusing on the protection of the human rights of IDPs, and the facilitation of their return and reintegration in conditions of safety and dignity. In the context of the Secretary-General's programme of reform, responsibility for effectively addressing the issue of IDPs has been assigned to the Emergency Relief Coordinator.

66. The reports of the Representative and contributions sent by Governments illustrate that the situation of IDPs has been increasingly recognized as a human rights problem and not only as a humanitarian or political issue. Numerous initiatives confirm this observation, such as the establishment of national institutions (ombudsman) to address the human rights of IDPs; national information campaigns for IDPs; training for national and international staff involved in assisting IDPs; and programmes for the safe return of IDPs. Special reference should also be made to regional initiatives. For instance, the Inter-American Commission on Human Rights of the Organization of American States (OAS) appointed a rapporteur on IDPs. A permanent consultation on internal displacement in the Americas has been created by intergovernmental and non-governmental organizations to increase protection and assistance for displaced populations. Regional conferences have been held, under joint United Nations and regional sponsorship, on population displacement in the Americas, as well as in the Commonwealth of Independent States (CIS) and the Great Lakes region, to elaborate on comprehensive regional frameworks, including preventive and development strategies. The Organization for Security and Cooperation in Europe (OSCE) and the European Community have deployed staff in the field to defuse the tensions that typically cause displacement and to protect IDPs. Also, bilateral treaties concerning the resolution of problems relating to IDPs have been reported.

Rights of migrant workers

67. Concern over the rise in racist and xenophobic hostility against migrants, as well as their often vulnerable position in labour relations, prompted the World Conference to specifically call for the protection of the human rights of all migrant workers and their families (Vienna Declaration and Programme of Action, sect. II, paras. 33-35). The Commission on Human Rights, in its resolution 1997/75, established an intergovernmental working group of experts to gather information on the obstacles existing to the effective and full protection of the human rights of migrants and elaborate recommendations in this respect. While encouraged by the number of responses received to a questionnaire sent to Governments, the group noted that more than one third of the States responding to the questionnaire expressly recognized the existence of problems of prejudice, xenophobia or racial discrimination against migrants in their respective countries. This was interpreted by the group of experts as an empirical indication of awareness of widespread violations of the human rights of migrants (see E/CN.4/1998/76).

68. A number of reports submitted in the framework of the five-year review refer to measures undertaken at the national level to better protect migrant workers, including amendments of relevant laws; adoption of integrated

governmental policies; and special adaptation programmes for newly arrived immigrants. The Secretary-General will submit to the General Assembly at its fifty-fourth session a comprehensive report on the problem of violence against women migrant workers. In spite of a clear invitation by the World Conference to ratify the 1990 International Convention on the Rights of All Migrant Workers and Members of Their Families, this treaty has not entered into force due to insufficient ratifications. Recently, a worldwide campaign to encourage ratification of this Convention was launched by non-governmental organizations, and has received strong support from ILO and OHCHR.

Rights of disabled persons

69. The World Conference called for national legislation to ensure equal access for disabled persons to all human rights and freedoms (Vienna Declaration and Programme of Action, sect. II, paras. 63-65). To facilitate this task, the General Assembly adopted Standard Rules on the Equalization of Opportunities for Persons with Disabilities (see Assembly resolution 48/96). A Special Rapporteur has been appointed within the framework of the Commission for Social Development to monitor the implementation of the Standard Rules. The General Assembly reaffirmed the continuing validity and value of the World Programme of Action concerning Disabled Persons, and decided that the third quinquennial review and appraisal of the Programme will be presented in 2002.

70. States have taken steps to ensure that the rights of the disabled are respected by all sectors of society by passing legislation that prohibits discrimination based on physical handicaps. In many cases, laws concerning labour and social affairs have also been amended to ensure equal access to health, legal and employment facilities. Some countries have repealed antiquated laws dealing with the compulsory treatment of mentally ill patients. Programmes designed to protect the rights of persons with disabilities, including the allocation of increased budgetary resources, have been developed in some countries. Special institutions have also been mandated to provide assistance services and programmes for persons with disabilities to facilitate their full integration in all areas of society. Vocational training plays an important role in this respect.

71. Consideration of relevant issues by the United Nations organs and bodies demonstrates, however, that mass shortcomings in the area of employment, education, nutrition and health care bring about an increase in the disabled population and create a major obstacle to the realization of human rights of persons with disabilities. Situations of armed conflict and indiscriminate use of anti-personnel mines, particularly among civilian populations, have especially devastating consequences in this regard. The improvement of the situation of disabled persons remains a significant challenge to the international community. Universal ratification of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction would undoubtedly have an important preventive impact.

IX. Response to acute human rights violations

72. The concern of the international community over particularly acute violations of international human rights and humanitarian law is reflected throughout the Vienna Declaration and Programme of Action. The World Conference expressed its dismay at massive violations of human rights, especially in the form of genocide, "ethnic cleansing" and systematic rape of women in war situations, creating mass exodus of refugees and displaced persons, and also emphasized that perpetrators of such crimes should be punished and such practices stopped immediately (sect. I, para. 28). The World Conference also condemned gross and systematic violations as serious obstacles to the full enjoyment of all human rights (sect. I, para. 30), and called on all parties to armed conflicts to strictly observe international humanitarian law.

73. Steps have been taken in a number of countries to address issues relating to summary and arbitrary executions, torture or other cruel, inhuman or degrading treatment and involuntary disappearances, including legal prohibition of such acts, making these acts punishable by law; improvements in prison conditions; changes in national legislation to address unwarranted periods of detention and to ensure detention provisions consistent with international human rights standards; the creation of national structures to investigate reports of arbitrary executions, torture and involuntary disappearances; and establishing resources provided for the rehabilitation of torture and trauma victims. Some progress has also been made in abolishing the use of capital punishment. Since 1993, nine States have taken this step, bringing the total number of abolitionist countries to 61 as of 5 December 1997 (see E/CN.4/1998/82). The World Conference recommendation concerning the provision of additional resources to the United Nations Voluntary Fund for the Victims of Torture has been echoed by the international community. Contributions to the Fund have

increased steadily in the past five years to reach approximately US$ 4.5 million in 1997 (see figure III).

74. Five years after the World Conference, the Special Rapporteur on the question of torture stated his disappointment at the high incidence of torture in many countries, while noting that it has substantially diminished in some, notably where United Nations field operations are in place pursuant to a peace agreement (see E/CN.4/1998/38). The Special Rapporteur on extrajudicial, summary or arbitrary executions recently noted that as in previous years, the Special Rapporteur is compelled to conclude that there is no indication that extrajudicial, summary or arbitrary executions have decreased. The Special Rapporteur is convinced that extrajudicial, summary or arbitrary executions can be prevented only if there is a genuine will on the part of Governments and the international community not only to enforce the safeguards and guarantees for the protection of the right to life of every person under its jurisdiction but also to strengthen them further (see E/CN.4/1998/68). The Working Group on Enforced or Involuntary Disappearances, in its last report to the Commission on Human Rights (E/CN.4/1998/43), emphasized that enforced disappearances, although a relatively recent phenomenon, have increased markedly in a number of countries. Most recent cases have occurred in the context of internal armed conflicts, ethnic and religious tensions and other forms of internal disturbances. The Working Group appealed once again to all Governments to take effective measures to prevent the crime of enforced disappearance, noting that if the political will of Governments exists, the phenomenon of enforced disappearances will disappear from history as quickly as it emerged. Reinforced measures to prevent grave human rights violations are necessary at the international and national levels. It must be noted that the recommendation of the World Conference concerning the adoption of an optional protocol to the Convention against Torture establishing preventive visits to places of detention remains unfulfilled. The Working Group of the Commission on Human Rights continues its work with the aim of submitting a final text to the Commission by its fifty-fifth session.

75. Responsibility for human rights violations is an essential component in the full implementation of human rights. The World Conference called on States to abrogate legislation leading to impunity for those responsible for grave violations of human rights and thereby provide a firm basis for the rule of law (Vienna Declaration and Programme of Action, sect. II, para. 60). During the last five years, the relationship between this step and lasting solutions to conflict situations has been widely recognized. The Dayton Agreement, the activities of the Truth and Reconciliation Commission in South Africa and the truth commissions in some Latin American countries all bear witness to the practical dimension of this approach. The establishment of International Tribunals for the former Yugoslavia and Rwanda, as well as the adoption of the Statute for the International Criminal Court by the International Diplomatic Conference in Rome on 17 July 1998 indicate progress in line with the recommendations made by the World Conference (sect. II, para. 96). These developments provide additional evidence that the international community is determined to hold all individuals, regardless of official rank or capacity, responsible for committing such horrific crimes as genocide, war crimes and crimes against humanity. The question of impunity has been the subject of study by the Subcommission on the Prevention of Discrimination and Protection of Minorities. Two reports have been prepared on the impunity of perpetrators of human rights violations: one in the area of civil and political rights and the other concerning economic, social and cultural rights.

X. Advisory services and technical assistance

76. Technical cooperation in the field of human rights became one of the main items during the Vienna Conference, and was recognized as a basic preventive tool. The Vienna Declaration and Programme of Action emphasizes the need for a comprehensive United Nations programme in this regard and the importance of assistance for the development of national plans of action for human rights, and for strengthening the institutions of human rights, democracy and the rule of law. It also calls for the increased accessibility of the programme, including through the posting of staff in the field.

77. Five years after the Vienna Conference, the once modest programme of technical cooperation in the field of human rights administered by OHCHR is active in more than 50 countries on five continents (see figures IV and V; see also E/CN.4/1998/92). OHCHR teams based in 22 Member States allow for an unprecedented level of sustained human rights support to project partners. Previously comprised of a series of ad hoc initiatives, the programme today forms a comprehensive whole, including a variety of programmes (see figure VI) based on mutually reinforcing substantive components; standardized methodology; and policy framework for its implementation. Demand from Member States, perhaps the most important indicator of the post-Vienna impact of the programme, is at an all-time high.

78. Today, programme areas include a broad range of institutional entry points for human rights, democracy and the rule of law, such as advisory services, training, fellowships and grants directed to constitutional assistance; legislative reform; free and fair elections; independent judiciaries; fair prosecutions; humane policing; decent penal institutions; effective parliaments; independent national ("Paris Principles") institutions; and strong and capable national non-governmental organizations. As mandated by the Vienna Declaration and Programme of Action itself, the programme also makes available direct support for the drafting of national plans of action in the field of human rights.

79. Continuing challenges, however, include the failure of resources to keep pace with ever-increasing demands on the programme (the shortfall as of 31 August 1998: US$ 5.2 million). Neither regular budget allocations nor contributions to the Voluntary Fund for Technical Cooperation in the Field of Human Rights administered by OHCHR have been sufficient to meet this need. Increased cooperation between OHCHR and the relevant components of the United Nations system and with regional organizations can contribute to improving this situation. For example, OHCHR signed memoranda of understanding with UNDP, UNFPA and the OSCE Office for Democratic Institutions and Human Rights on cooperation both in the field and at headquarters in the area of technical assistance. The memorandum of understanding between UNDP and OHCHR, signed in March 1998, targets increased mutual support, efficiency and effectiveness of the respective programmes. Through coordination of efforts and the combination of different expertise, as in this case, Member States can count on more efficient, readily available and effective assistance in the field of human rights, governance and the rule of law.

XI. Education and public information

80. The Vienna Declaration and Programme of Action affirmed that education on human rights and the dissemination of proper information, both theoretical and practical, play an important role in the promotion and respect of human rights with regard to all individuals without distinction of any kind, such as race, sex, language or religion, and this should be integrated in the education policies at the national as well as international levels (sect. I, para. 33).

81. Pursuant to the recommendation made by the World Conference, in December 1994 the General Assembly proclaimed the United Nations Decade for Human Rights Education (1995–2004), during which Governments, international organizations, national institutions, non-governmental organizations, professional associations, all sectors of civil society and individuals were called upon to establish partnerships and concentrate their efforts on promoting a universal culture of human rights through human rights education, training and public information. The international Plan of Action for the Decade (see A/51/506/Add.1) sets out detailed objectives for the international community: the building and strengthening of programmes and capacities for human rights education at the international, regional, national and local levels; the coordinated development of effective materials; the strengthening of the role and capacity of the mass media; and the global dissemination of the Universal Declaration of Human Rights (see also E/1998/60).

82. The Plan of Action for the Decade encourages the establishment of national committees for human rights education, which should include a broad coalition of governmental and non-governmental actors responsible for developing and implementing national plans of action for human rights education. Guidelines to assist such national efforts, developed by OHCHR, were presented in an addendum to the previous report of the Secretary-General to the General Assembly (A/52/469/Add.1). At the national level, initiatives undertaken in the framework of the Decade vary considerably in scope, focus and participants involved. Initiatives include sponsoring human rights training programmes for government officials and law enforcement officials, as well as representatives of civil society and providing overall policy guidance through the publication of training and resource materials. Human rights-related courses have been added to school curricula at all levels of instruction, and new methods of human rights instruction have been developed. Reports refer to steps to provide teachers with updated methodological resources, which in many cases are intended to integrate human rights education into a broader range of school subjects. Some countries have adopted comprehensive plans of action for human rights education and established national committees to coordinate activities in this area.

83. Unfortunately, only in a relatively small number of cases has support by the international community for human rights education, training and public information, in terms of human and financial resources, corresponded to the fullest extent with the proclamation of the Decade. However, the occasion of the commemoration of the fiftieth anniversary of the Universal Declaration of Human Rights has mobilized more partners to undertake ad hoc or long-term educational initiatives. At the international level, efforts have been made

to combine limited resources and avoid duplication, including through close cooperation among United Nations agencies (e.g., involving DPI and its United Nations information centres all over the world, UNESCO and its national commissions and ITU) and with international organizations. This has significantly enhanced support for national human rights initiatives.

84. The use of the Internet as a tool for providing information on the work of the United Nations human rights programme has been greatly enhanced by the creation of the United Nations Human Rights Web site (www.unhchr.ch). The site was launched in December 1996, and is maintained by OHCHR in English, French and Spanish language versions. It has become one of the major sources of human rights data on the Internet, providing complete and current information on the activities carried out by the United Nations in the field of human rights. A CD-ROM version of the site, which will be produced by the end of 1998, will also contain over 12,000 bibliographic references and the full text of the international human rights instruments. A new quarterly review of OHCHR entitled *Human Rights* was launched in 1997, and provides information on the work of the United Nations human rights machinery.

85. The implementation of the Vienna Declaration and Programme of Action provisions concerning human rights education and public information and the success of the Decade will, over the next five years, require stronger involvement on the part of the international community and a strengthening of the partnership between governmental and non-governmental actors. It is imperative that the importance of human rights education and public information as major investments towards a just and peaceful society be fully understood and valued. Ultimately, the effective promotion and protection of human rights benefitting all people is not possible without a global human rights culture of which education and information are major tools.

XII. Implementation of human rights

86. Making human rights a reality was the overarching idea that guided the World Conference on Human Rights. The generally shared view during the World Conference was that since the major goals in the area of standard-setting had already been achieved, the international community should give increased priority to the implementation of existing standards. The World Conference stated clearly that the protection and promotion of human rights is the first responsibility of Governments. International action can offer important and sometimes necessary support to efforts by Governments and societies but cannot replace them.

87. The "post-Vienna" period does not offer a consistent picture with regard to the implementation of human rights. Resolutions of the Commission on Human Rights and the General Assembly, reports of special rapporteurs and working groups, as well as comments by the treaty-based bodies, provide evidence of positive developments in many countries. The globally observed trend towards democracy has also benefited the areas of human rights and development. The end of dictatorial regimes in South Africa and Haiti, and the transformation in Central and Eastern Europe are only some notable examples of this process. The fact that this crucial change has been guided and supported largely by international human rights standards gives the international community good reason for satisfaction. It is most encouraging to see how these standards empower people in struggling for democracy, and, after achieving it, in building a democratic society.

88. The five-year review reports submitted by Governments, as well as information from other sources (e.g., State reports to treaty bodies) illustrate that in many countries, an intensive process of legislative change has taken place to ensure the consistency of national law with international standards. Many constitutions and ordinary laws of countries in transition to democracy include direct and indirect references to the Universal Declaration of Human Rights and to international human rights law in general, and also recognize the supremacy of international human rights treaties over domestic regulations. Moreover, national courts increasingly refer to international standards in order to evaluate the validity of national law and practice. Several reports refer to the establishment of human rights institutions and affirmative policies to better promote and protect human rights. References to decisions liberating people from places of detention, abolishing the death penalty or extending pardon for death sentences, reforms of the administration of justice and strengthening of procedures offering the individual concerned the means to claim his or her rights, among others, are also very encouraging. In these processes, which connect human rights, governance and rule of law issues, assistance from the United Nations system is of paramount importance.

89. However, this optimistic picture is distorted by national laws remaining in force, or even newly adopted, that are inconsistent with the letter or spirit of international human rights obligations, such as laws that discriminate against women or interfere with fundamental freedoms (e.g., freedom of opinion, freedom of association, freedom of religion); laws that do not recognize economic, social and

cultural rights; and laws that do not adequately protect individuals in penal proceedings. Unfortunately, such laws are not uncommon. This is particularly disturbing since laws are expressions of political will, and their adoption cannot be explained simply by the negligence or abuse of State officials.

90. The international community is confronted daily with news of grave human rights violations affecting large numbers of people worldwide. The General Assembly and the Commission on Human Rights, treaty bodies and special procedures all regularly deal with (a) obstacles to the enjoyment of all human rights by all, (b) serious human rights violations and (c) difficult human rights situations in a relatively large number of countries. The present report also refers to several thematic issues requiring resolution. The United Nations High Commissioner for Human Rights, in her dialogue with Governments, follows up on the recommendations of the human rights machinery with a view to securing respect for all human rights. It is of paramount importance that determined action be undertaken at the national level to carefully consider and implement these recommendations.

91. Every year, thousands of letters and communications are addressed by individuals and non-governmental organizations to the Secretary-General, the General Assembly, the Commission on Human Rights and other United Nations organs, alleging human rights violations and seeking United Nations intercession on behalf of alleged victims (see figure VII). A considerable part of these are examined through a procedure involving the Commission on Human Rights and the Subcommission on the Prevention of Discrimination and Protection of Minorities, pursuant to Economic and Social Council resolution 1503 (XLVIII), in which the Council sought to identify and respond to systematic and gross violations of human rights.

92. Human rights treaty monitoring bodies are at the centre of the United Nations system for the promotion and protection of human rights. Their impact on the law and practice of State Parties is unquestionable. Equally important in the case of communication procedures, treaty bodies are perceived by those who believe their rights have been violated as agents of international justice (see figure VIII). Treaty bodies are not static structures. On the contrary, their members have proven the ability to adapt to evolving needs. Several new functional concepts have been developed (e.g., early warning procedures, reaction to emergencies, country missions, reports ex officio in case of extreme delays in delivery of government reports, follow-up to conclusions, cooperation with United Nations agencies and programmes).

93. However, the unique expertise and wealth of information available within the treaty bodies has not been exploited fully. Since the World Conference, annual meetings of the chairpersons of these bodies have highlighted major obstacles in this context, including the increased workload (reports are frequently not scheduled for examination until two or three years after submission), as well as insufficient secretariat support and time at the disposal of the bodies. Further, the chairpersons stressed delays in reporting by Governments (some 1,000 reports overdue) and limited responsiveness from some components of the United Nations system, in particular the international financial institutions (see A/52/507). While welcoming the success of the Plan of Action for the Convention on the Rights of the Child and the growing support for a more limited Plan of Action for the International Covenant on Economic, Social and Cultural Rights, the chairpersons proposed an overall plan of action to support the work of the treaty bodies and thus help them meet the expectations of Governments and other interested parties (see A/53/125).

94. The call of the World Conference for strengthening the system of special procedures, rapporteurs, experts and working groups under mandates established by the Commission on Human Rights has been responded to by the international community (see figure IX). Decisions of the fifty-fourth session of the Commission on Human Rights concerning the establishment of three new mandates in the area of economic and social rights contributed to a better thematic balance of the system. Holders of special procedures mandates have refined their methods of work; increased the frequency of their country visits; initiated, in some cases, comprehensive comparative analytical studies; and developed procedures for handling individual complaints. Cooperation between thematic rapporteurs and country-specific rapporteurs has developed, for example through joint actions, joint urgent appeals, and in some instances joint country visits. As of 1999, the annual meetings of all special rapporteurs (launched in 1994) and the chairpersons of treaty bodies will be held simultaneously to offer the participants a better possibility for interaction.

95. It is regrettable that several country rapporteurs have not obtained the consent for visits from the Governments of those countries for which specific mandates had been established. A number of requests for country visits by thematic rapporteurs are left without reply. At the same time, the increasing number of countries that have decided to invite thematic rapporteurs has led to greater frequency of country visits. Holders of mandates have stressed repeatedly that the resources to support their activities have not kept up with the increase in mandates, and in fact have been reduced

since 1993. This development has had a negative impact on the work of rapporteurs, *inter alia*, with regard to timely documentation.

96. It should be noted that the ongoing review of the human rights machinery includes the treaty bodies and special procedures systems and should produce comprehensive proposals for achieving greater effectiveness of their action. Meanwhile, OHCHR undertakes to ensure better conditions of work and more effective coordination in both areas within existing resources.

97. The movement of the human rights programme to the field must be cited as one of the essential changes in the human rights activities of the United Nations since the World Conference (see figure X). Today, more than 200 United Nations human rights officers are working in 22 countries around the world. The mandates for these presences come from resolutions or decisions by the United Nations organs, or are the result of agreements between the High Commissioner and the country or countries concerned. The primary purpose of field presences is to support the efforts of countries to create national capacities for the promotion and protection of human rights and the rule of law. Within this general framework, activities focus on providing technical cooperation or combine assistance with monitoring of the human rights situation. The field presences are either part of a wider United Nations presence or set up directly by OHCHR. The experience of the past five years indicates the great importance of this new form of work. It not only enhances the capacity of the United Nations human rights programme to respond adequately to the needs of Member States but also strengthens the input of OHCHR in cooperation with other United Nations partners in the field, resulting in more effective and efficient United Nations action.

98. The World Conference attached great importance to national institutions for the promotion and protection of human rights. Independent and pluralistic, consistent with the "Paris Principles" concerning their status (see General Assembly resolution 48/134, annex). Such institutions uphold the rule of law and democracy and provide electoral assistance, as well as raise human rights awareness through training and education, popular participation and the involvement of civil society. During the last five years, the number of countries that have established such institutions has increased considerably. The Fourth International Workshop of National Institutions, held at Mérida, Mexico (17 to 29 November 1997), and regional meetings in Asia and the Pacific (1997) and Africa (1998) highlighted the vital role national institutions play in approaching complex human rights problems. Contributions to the five-year review by national human rights institutions also point to their ability to be effective partners at the national level, as well as within the larger human rights community, while maintaining their distinct role as independent institutions. The contributions also stress the wide-ranging input of national institutions, including impartial investigation into alleged violations, assistance to victims, advocacy through information campaigns, education, research and training, as well as monitoring government compliance with treaty commitments. OHCHR, in many cases in cooperation with UNDP and other United Nations field offices, works to catalyse and support the establishment and work of national institutions. This priority activity has produced important results since the World Conference. One can expect that strong national institutions will increasingly take over tasks that currently still require international involvement.

99. It is unquestionable that grave and large-scale human rights violations are both the source and result of conflicts that are currently predominantly of an internal nature and inflict severe damage on civilian populations. Parties resort to strategies and tactics that deliberately target women, children, the poor and the weak, which has given rise to waves of internally displaced persons and refugees. As a result, humanitarian emergencies are commonplace. The international community must commit itself to providing the tools to avert the vicious cycle: violations of human rights lead to conflict, which results in new violations, and soon. The Secretary-General has called for declaring the next century "the age of prevention". Responding to this call is an important and current task. In the vast majority of cases, this is equated with addressing human rights problems as the root causes of conflicts.

100. The human rights programme is playing an increasing role in the United Nations response to the threat of ongoing conflicts. Human rights field presences in Bosnia and Herzegovina and other countries of this region, as well as Rwanda and Burundi should be mentioned as examples of such involvement. Training for the international staff of the United Nations and OSCE operations in human rights has also been provided, *inter alia*, in Angola, Cambodia, Eritrea, Haiti, Mozambique, South Africa and former Yugoslavia (see E/CN.4/1995/89). In addition, human rights components are increasingly being included into peace operations of the United Nations. To analyse the modalities of this involvement, the United Nations Executive Committee on Peace and Security has established a special task force. The reporting, experience and capabilities of OHCHR are regularly taken into account by the Secretary-General and relevant departments of the Secretariat involved in the United Nations response to conflicts.

XIII. Conclusions

101. The Secretary-General, in his 1994 report to the General Assembly on the follow-up to the World Conference on Human Rights (A/49/668), stated that the Vienna Declaration and Programme of Action undoubtedly constituted one of the major events in the United Nations history of human rights. If adequately implemented, it would be a milestone in this history. It is clear that the World Conference has provided an invaluable service by declaring overall principles and formulating detailed recommendations for action in the field of human rights. The international community can justifiably point to significant steps which have been taken over the past five years at both national and international levels to implement the recommendations made by the World Conference on Human Rights.

102. More than at any previous time in history, human rights today articulate the goals of the international community and confirm its commitments to ensuring a life of dignity for all people. As imperatives for the behaviour of governmental and other authorities in all actions that affect people, human rights have become the common measure for the progress of nations and the wider international community. Rooted in the realm of ethics, human rights today serve not only as legal norms but also as the moral underpinnings of international relations, by placing each individual at the heart of national and international concern. On this basis, the international community should continue to develop a global partnership for human rights, an alliance that benefits all people, in particular those in need and those who suffer under oppression. This alliance, which gained significant momentum as a result of the spirit of the Vienna Conference, is indispensable if the hopes for the universal implementation of international human rights standards in the twenty-first century are to be fulfilled. The contributions of all actors are needed in this integrated effort: Governments and international organizations, as well as civil society, including non-governmental organizations, academic institutions, community initiatives and the media, all have vital roles to play.

103. Although the five-year review was primarily intended to assist in the analysis of the practical impact of the Vienna Declaration and Programme of Action to date, it serves an even more important role by contributing to the identification of the persistent challenges to the full implementation of international human rights standards that remain in all countries of the world. In view of the input received by OHCHR specifically for the purpose of the five-year review, as well as other relevant United Nations documents, the General Assembly may wish to examine, in particular, the response to the following issues, which have direct impact on the full implementation of the Vienna Declaration and Programme of Action:

(a) Strengthening the implementation of human rights at the national level: progress in this regard, for which primary responsibility lies with Governments, remains the main challenge. Assistance in meeting it should be fortified by a conducive international climate for the promotion and protection of human rights. Addressing matters of concern for different countries and regions in a balanced and cooperative way has proved to be a constructive method for the promotion and protection of human rights worldwide;

(b) Making the system of international human rights instruments more effective: ratification of treaties, withdrawal of reservations, development of indicators and benchmarks for marking progress in the realization of rights and increasing the impact of treaty-based bodies all remain major objectives in this context. The universal ratification of the six core human rights treaties, including the optional protocols thereto, within the next five years, would not only serve as a decisive step towards a shared international legal commitment to the implementation of all human rights but would also symbolize the international community's willingness to work in a true spirit of partnership to reach common goals;

(c) Giving effect to the principle that human rights are universal, indivisible and interdependent: the recognition of this principle was one of the critical aspects of the consensus reached by the World Conference. In order to be fully respected and observed, human rights must be understood, promoted and implemented by the international community also from the perspectives of development, peace and security;

(d) Creating a favourable environment for human rights and human development: the eradication of, *inter alia*, extreme poverty, famine and illiteracy must be pursued as basic goals of the entire international community. Governments and international institutions bear this responsibility towards present and future generations;

(e) Preventing human rights violations: prevention of mass and grave human rights violations is the way to effectively avert large-scale suffering of people and many conflicts that result in new violations of human rights. To that end, a comprehensive approach for preventing human rights violations should be adopted by States and the international community, including both addressing the economic, social, ethnic and other root causes of conflict from a human rights perspective, maintenance of the rule of

law and strengthening of democratic institutions. Equally important, the eradication of racism and mass and gross human rights violations, including summary and arbitrary executions, torture and involuntary disappearance, must be the ultimate end of efforts at international and national levels to ensure respect for human dignity;

(f) Enhancing national capacities, including national human rights institutions, to effectively promote and protect human rights: States should consider establishing and/or strengthening national human rights structures and institutions, as well as utilizing existing programmes of technical assistance to support this process. The international community should provide appropriate resources to that end and ensure their optimal use at the national, regional and international levels;

(g) Taking effective action to address the phenomena that render large groups of people vulnerable: States and the international community should address such problems in a comprehensive and coordinated way;

(h) Ensuring the equal status and the implementation of human rights of women: proactive measures at the national and international level are required to that end. Women's human rights have to be mainstreamed into all relevant policies and activities of Governments. This process should be supported by assistance in the field of women's human rights provided by international organizations, including the United Nations system;

(i) Developing a culture of human rights through human rights education: an ultimate breakthrough in the global promotion and protection of human rights, which should be the overall goal of the United Nations human rights programme in the twenty-first century, will depend upon the empowerment of new generations through active knowledge and understanding of their rights. Human rights education must be at the core of educational systems in all countries worldwide;

(j) Strengthening the role of non-governmental organizations and civil society at large: contribution by this sector has been widely recognized as vital for the effective promotion and protection of human rights. Cooperative and innovative approaches should be adopted to fully utilize this unique potential and ensure greater participation of civil society in decision-making;

(k) Implementing the agreed conclusions adopted by the Economic and Social Council in the context of the five-year review of the implementation of the Vienna Declaration and Programme of Action: this will be essential in the process of forging global support for human rights.

104. The international community must conclude that five years after Vienna, a wide gap continues to exist between the promise of human rights and their reality in the lives of people throughout the world. At the beginning of the twenty-first century, making all human rights a reality for all remains not only our fundamental challenge but also our solemn responsibility. The international community must summon the will to adequately respond to current challenges and those that lie ahead. The unanimously adopted Vienna Declaration and Programme of Action has proven its value as a guide for national and international efforts and maintained its role as a central international policy document in the field of human rights. It should continue to chart the course of human rights activities throughout the world in the years to come.

Figure I

Increases in ratifications of the human rights treaties since the World Conference on Human Rights

Number of countries (1993–1997)

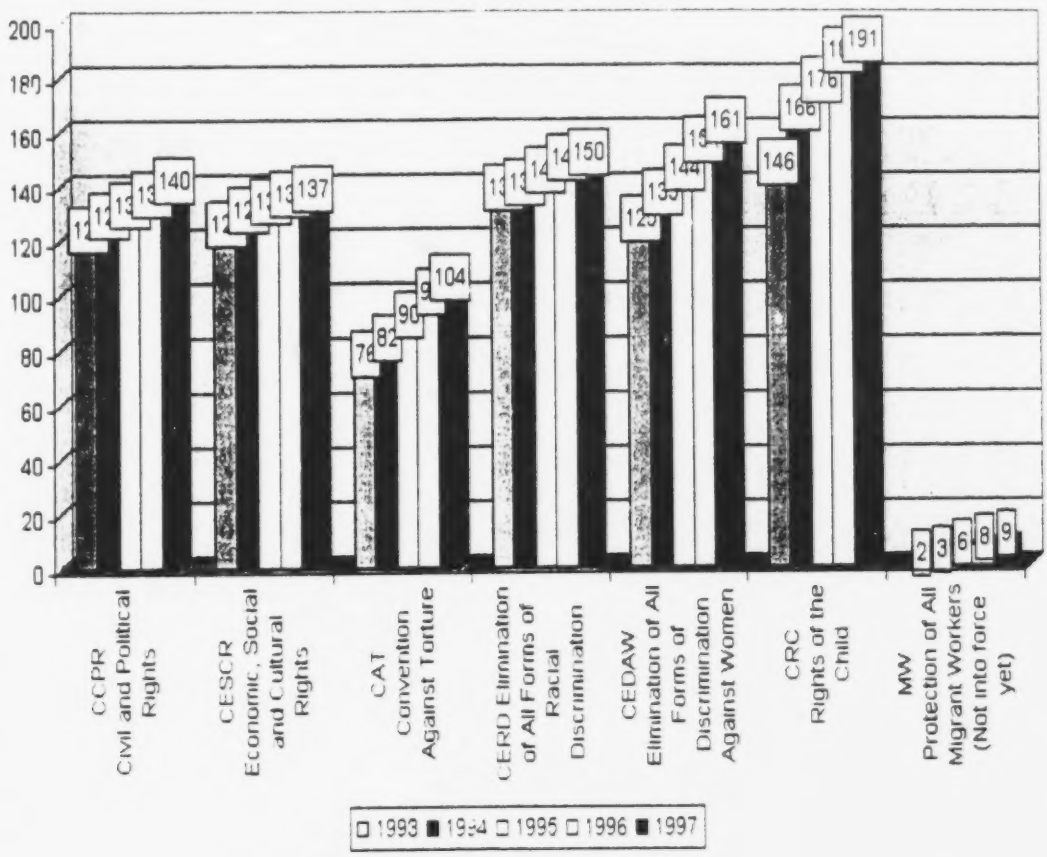


Figure II
Ratification of optional communications procedures

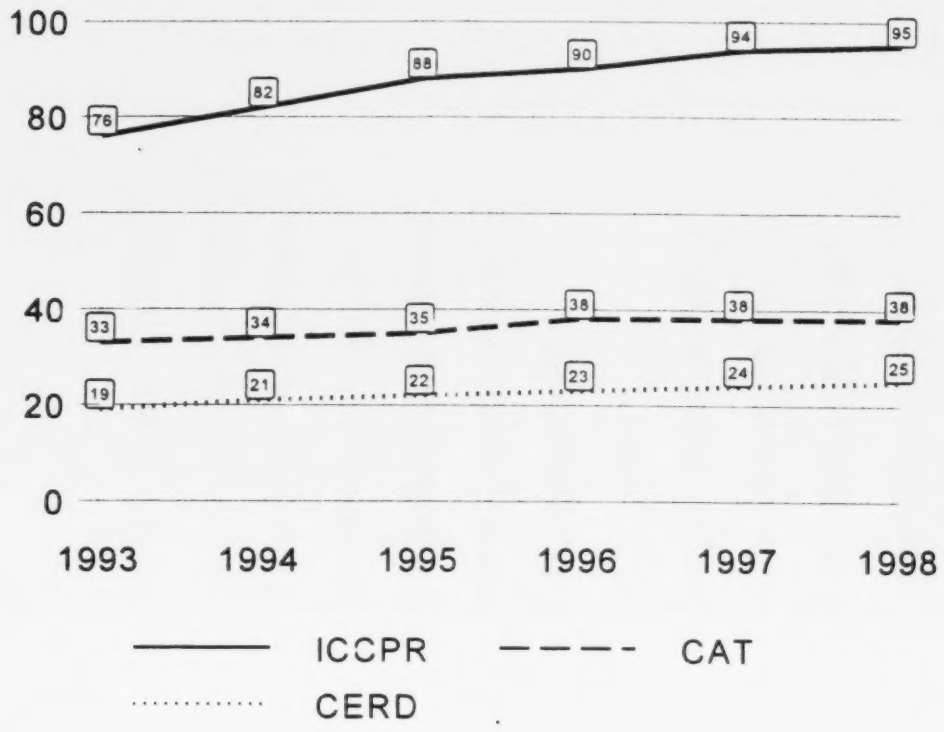
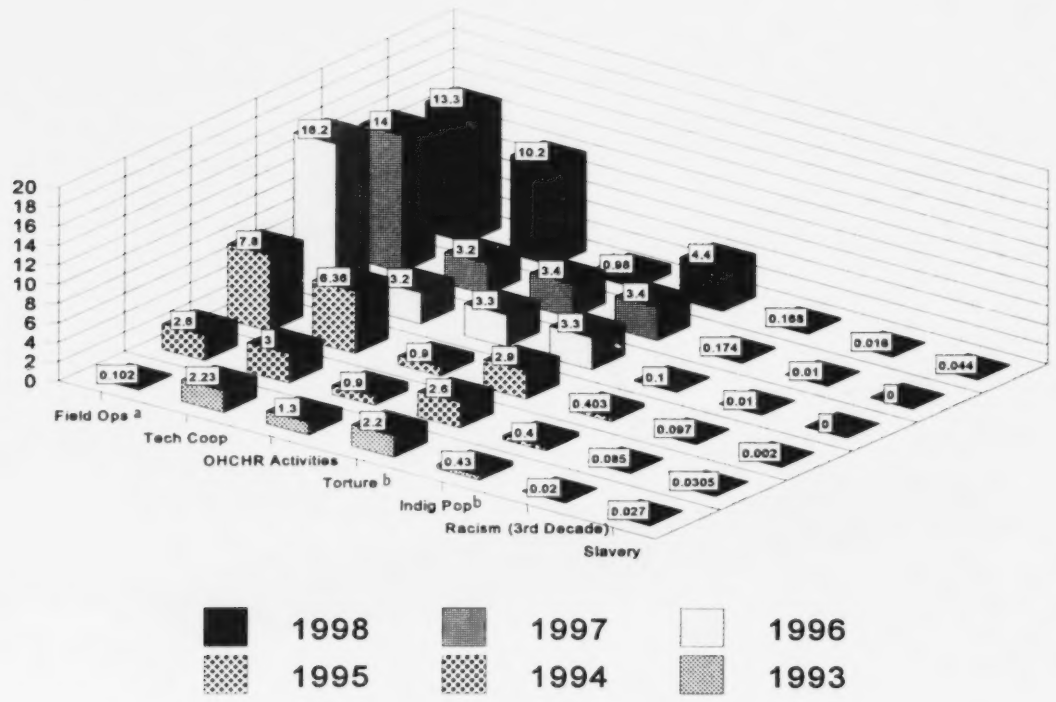


Figure III
Voluntary and trust funds in the field of human rights
(Contributions received as of 30-09-98)



[1] Contributions received for OHCHR field operations.
[2] Contributions received as of 30 April 1998.

Figure IV
Technical cooperation programme trends: number of main activities (1984–1997)

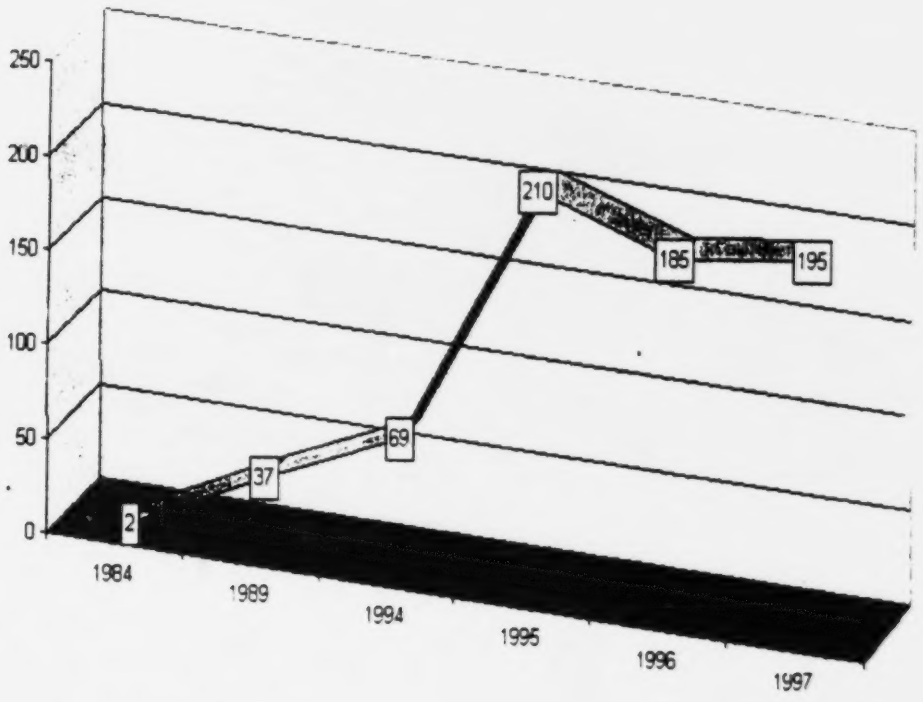


Figure V
Technical cooperation: budgetary allocations, by region, 1997

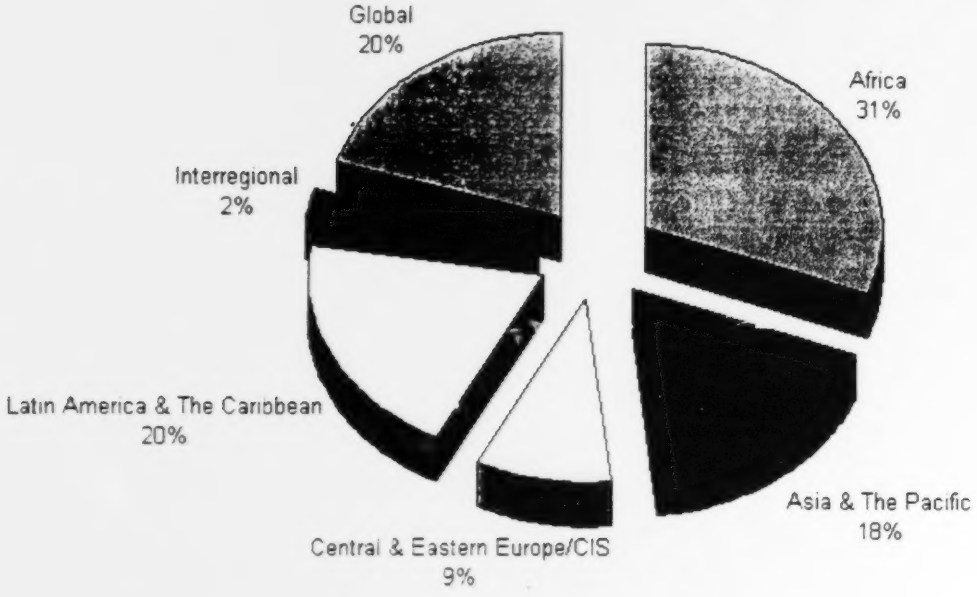


Figure VI
Technical cooperation programmes

	Country programmes carried out	*Global programmes carried out*	*Interregional programmes carried out*	*Regional programmes carried out*
1993	30	0	1	5
1994	43	6	1	5
1995	50	12	2	7
1996	50	12	1	11
1997	50	12	1	9

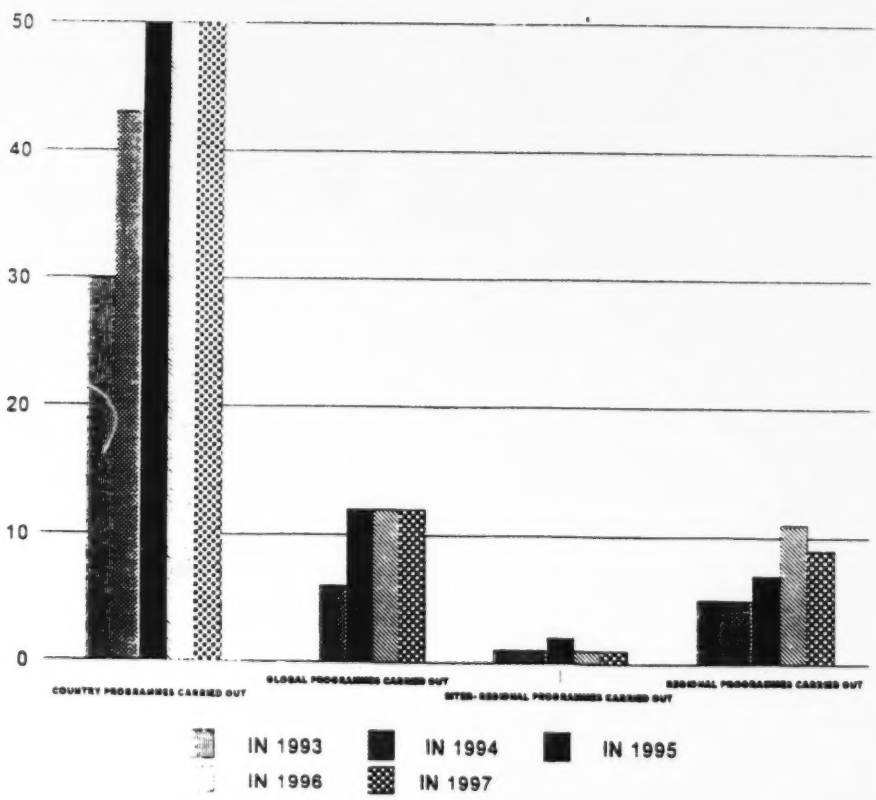


Figure VII
Number of communications received by the extra-conventional mechanisms established by the Commission on Human Rights

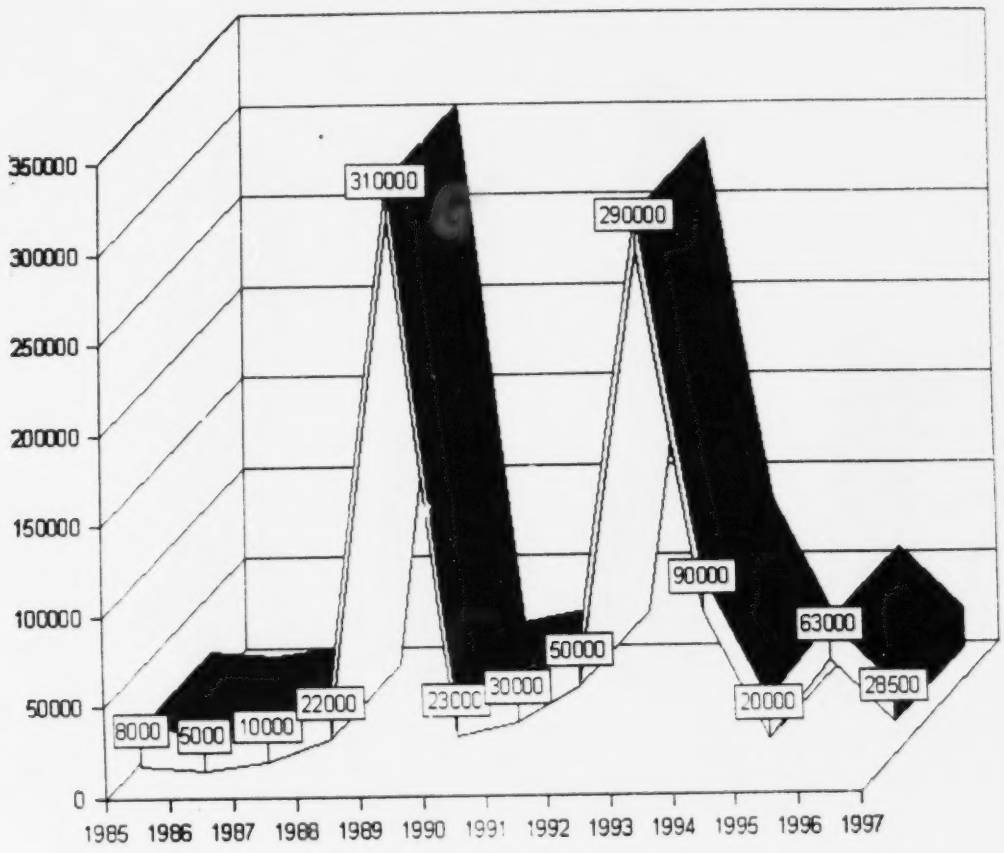


Figure VIII
Individual communications to conventional procedures

Number of cases, 1994–1997

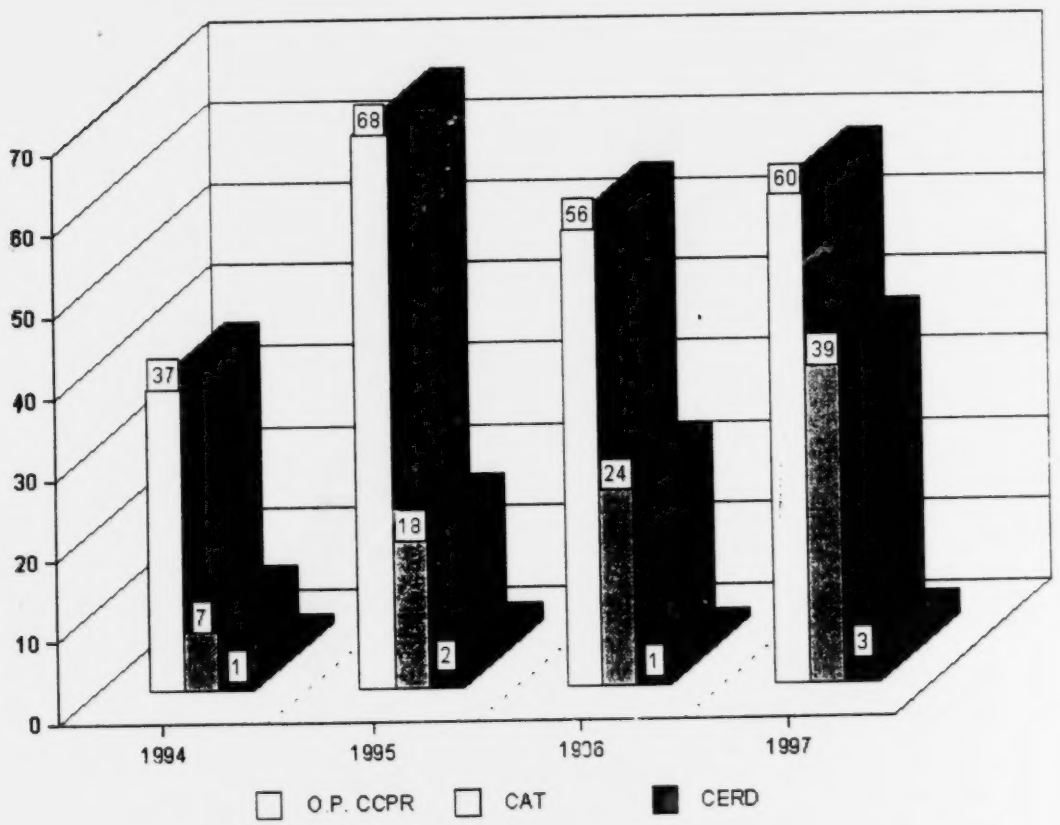


Figure IX
Growth in extra-conventional mechanisms: number of special rapporteurs, representatives, independent experts and working groups, 1995-1998

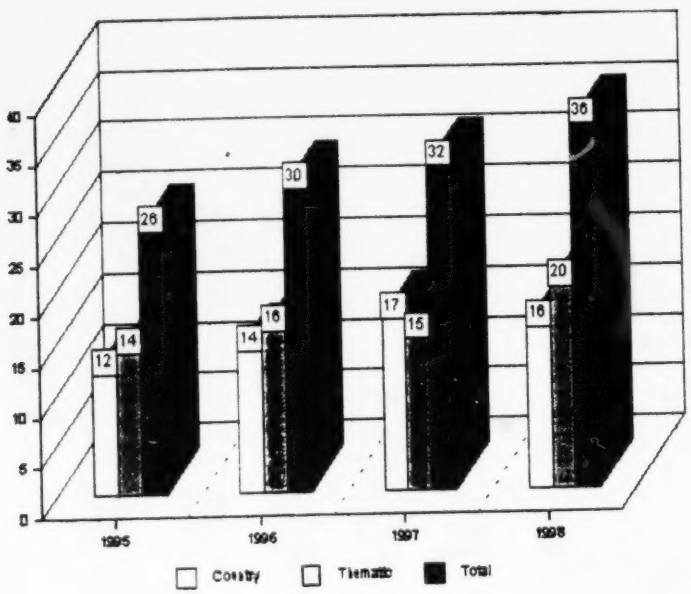
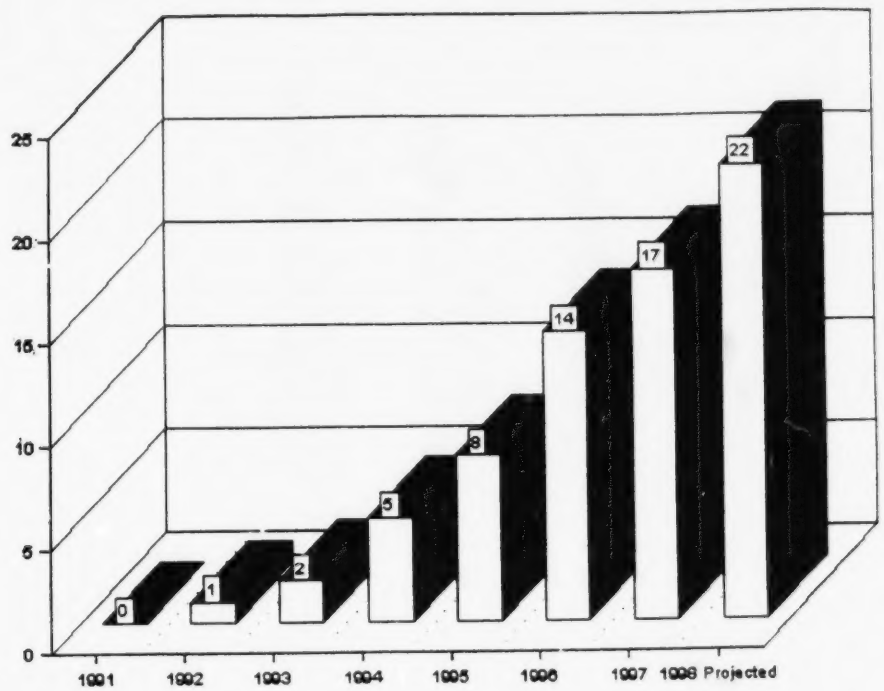


Figure X
Number of OHCHR presences in the field, 1991–1998



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Item 94 (d) of the provisional agenda*
Macroeconomic policy questions: external debt crisis and development

Debt situation of the developing countries as of mid-1998

Report by the Secretary-General

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* A/53/150.

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I. Introduction

1. The present report was prepared pursuant to General Assembly resolution 52/185 of 18 December 1997, in which the Assembly requested the Secretary-General to report to it on the implementation of current initiatives related to the question of external debt of developing countries.

2. The report analyses recent trends in developing countries' external debt, as well as the current approaches to the debt problems of developing countries, and draws some international policy conclusions with a view to making constructive proposals for improvement in the current debt workout strategies. Focus is given to the debt problems of two particular groups of countries: the heavily indebted poor countries (HIPCs) and the middle-income countries in Latin America and Asia which have been affected by recent financial crises. The present report takes up from the previous report of the Secretary-General (A/52/290), and analyses the debt situation of developing countries from mid-1997 to mid-1998, against the background of current debt strategies.

II. Recent trends in external debt

A. All developing countries

3. The total external debt of all developing countries and countries in transition as at the end of 1997 is estimated at $2.2 trillion, an increase of four per cent or $76 billion over 1996 (see table 1). The bulk of that amount comprised long-term debt (80 per cent), while short-term debt accounted for 18 per cent of the total. Credits from the International Monetary Fund (IMF) made up the difference. Public and publicly guaranteed debt continued to account for the major share of long-term debt, at 83 per cent of the total, but the volume of private non-guaranteed debt accelerated by 18 per cent and its share rose from 15 per cent in 1996 to 17 per cent of the total. Meanwhile, the volume of bonds outstanding declined by 13 per cent and its share in total external debt fell to 14 per cent.

4. Debt indicators improved for developing countries overall during the year, with marginal declines in the ratios of debt service to exports and debt stock to gross national product (GNP) and a larger fall in the ratio of the stock of debt outstanding to total exports (see table 1), largely reflecting the rapid growth of developing country exports, which rose by six per cent during the year. Short-term debt as a percentage of foreign exchange reserves fell moderately during 1997. Those overall trends, while indicating a somewhat improved debt position of developing and transition countries in 1997, mask a continued overhang of debt in many African countries. Likewise, they did not reveal the liquidity problems that led to the eruption of a debt crisis in some East Asian countries in the second half of 1997.

5. There was virtually no change in the geographical distribution of debt among the various developing and transition country regions during 1997. Asia and Latin America both accounted for 31 per cent of the total, as compared with 16 per cent for Africa, and 18 per cent for Europe and Central Asia.

B. Asia

6. Total Asian external debt rose by six per cent to an estimated amount of $666 billion at end-1997. Private non-guaranteed debt represented the fastest growing segment of external debt, rising by 20 per cent or $21 billion. Public and publicly guaranteed debt rose moderately, while bond financing fell dramatically by 40 per cent. Overall, short-term debt and total debt service also declined. The debt indicators show what would be expected to be a sustainable debt position.[1] The debt service ratio measured 13 per cent, the debt stock to exports ratio 114 per cent, the debt stock to GNP ratio 31 per cent, and short-term debt to foreign exchange reserves ratio 53 per cent; as noted, however, those figures obscure diverse trends at the country level.

Five Asian countries most affected by the Asian crisis

7. The Asian countries most affected by the Asian financial crisis (Thailand, Indonesia, the Republic of Korea, Malaysia and the Philippines) experienced a sharp liquidity crisis by the second half of 1997. In the cases of the Republic of Korea, the Philippines and Thailand, traditional debt indicators (ratios of debt to exports and interest payments to exports) revealed no potential external debt problem[2] (see table 2). In the case of Indonesia, the ratio of external debt to exports, which was above 200 per cent in 1996 and 1997, reflects the more severe debt distress that may extend beyond a mere liquidity problem in that country.

8. The traditional debt indicators are suitable for use as an advance indicator of potential insolvency but are inadequate by themselves for detecting short-term liquidity difficulties. The ratio of short-term debt to the stock of foreign exchange reserves,[3] which measures the ability of

a country to meet its foreign obligations that mature fairly soon out of liquid sources of foreign exchange, is better suited for that purpose. That ratio exceeded 100 per cent in 1996 and 1997 in the cases of Indonesia, the Republic of Korea, the Philippines and Thailand. The liquidity problems faced by those countries are also reflected by a maturity structure of external debt that is excessively heavily concentrated in short-term maturities. The data on foreign bank debt of those countries (see table 5) provide an indication of that concentration, with short-term liabilities representing more than 60 per cent of the total at the end of 1997. Those cases illustrate the importance of utilizing measures that can warn of potential liquidity difficulties in assessing the debt position of a country.

9. In the case of Malaysia, the debt indicators did not reveal any external debt problem, and the liquidity position also appeared to be under control (see tables 2 and 5) despite an important depreciation of its currency and reduction of its growth rate, following a spillover effect of the crisis in neighbouring countries.

C. Latin America

10. Latin America witnessed a moderate increase in external debt of three per cent or $22 billion during 1997, bringing total external debt to $678 billion, attributable to a 4 per cent or $20 billion rise in long-term debt and a smaller increase in short-term debt. In volume terms, purely private debt accounted for two thirds of the increase and public and publicly guaranteed debt for approximately one third. As in Asia, a substantial decline was recorded in the volume of outstanding bonds. Latin American debt indicators generally indicated a sustainable debt position for the region as a whole, with a debt service ratio of 12 per cent, debt stock to exports and to GNP ratios of 103 per cent and 43 per cent respectively, and a short-term debt to reserves ratio of 71 per cent. Once again, individual country experiences remained varied.

Five Latin American countries most affected by the Mexican crisis

11. Five middle-income Latin American countries have been particularly affected by both the 1994 crisis in Mexico and the crises in Asia beginning in 1997 (Argentina, Brazil, Mexico, Chile and Venezuela). Available data on those countries' debt profile[2] (see table 2) indicate a degree of continued vulnerability in some of those countries. Although Mexico's traditional debt indicators appeared sustainable, with moderate ratios of debt service, debt stock to exports and interest payments to exports (a ratio similar to the debt service ratio), the ratio of short-term debt to reserves amounted to 131 per cent in 1997 (the ratio was much higher in 1996). In both Argentina and Brazil, the debt burden has been fairly high during 1996/1997. For Argentina, the ratio of interest payments to exports was 21 per cent and the ratio of external debt to exports 313 per cent in 1997. The ratio of short-term debt to reserves indicated no short-term liquidity difficulty. In Brazil, the ratio of interest payments to exports was also 21 per cent, and the debt stock as a percentage of exports was 289 per cent in 1997, while the ratio of short-term debt to reserves did not signal immediate liquidity problems. Chile and Venezuela both exhibit sustainable debt loads, with all ratios measuring moderate indebtedness.

D. Africa

12. Africa continued to experience a high debt burden despite a fall in total external debt of 2 per cent to $324 billion in 1996 and an improvement in its debt indicators. The ratio of outstanding debt to exports exhibited an improvement at 205 per cent but still remained above the 200 per cent threshold that is held to indicate the existence of a debt overhang. The ratios of debt service to exports and debt stock to GNP also point towards an improved position. That positive trend, however, was largely the result of an enhanced export performance (combined with some reduction in total debt) that could prove transitory, especially in the light of the downward pressure on commodity prices exerted by the financial crisis in Asia. Similar developments were felt in sub-Saharan Africa during 1997, where total external debt also fell by 2 per cent ($4.6 billion) to $223 billion. The ratio of outstanding debt to exports, at 202 per cent, was marginally above the 200 per cent threshold despite a solid export performance. For many countries in the region with severe debt burdens, the large share of multilateral debt continues to represent an obstacle to improving their debt profile. The HIPC initiative represents a critical effort in addressing that issue.

E. The heavily indebted poor countries

13. The core of the debt problem that remains to be solved is the unsustainable debt positions of the group of 41 HIPCs. Their total external debt amounted to $245 billion at end-1996 (see table 3). As a group, those countries' debt burden remains severe, with a debt stock to export ratio of well over 300 per cent (far above the 200 per cent threshold

used to indicate a debt overhang) and a debt stock to GNP ratio of 127 per cent in 1996 after several years of improvement. The debt service ratio for those countries has generally remained below the 20 per cent threshold that warns of debt servicing difficulty, but that has often been the result of important accumulation of arrears, which has itself developed into a problem in some cases. For the HIPCs, the debt structure is overwhelmingly public and publicly guaranteed, which accounted for 80 per cent of total external debt at end-1996. The marginal size of purely private debt and bonds reflect at least partially the constraints that have been faced by the private sector in those countries in securing external financing.

III. International debt strategies

A. Frameworks to deal with the debt problems

14. Over the course of the past few decades, frameworks have been developed to allow a renegotiation of different types of debt within a set of procedures and principles determined in most cases by creditors, creditor Governments and multilateral financial institutions. Official bilateral debt is handled within the Paris Club, and most recently multilateral debt relief is being treated in the context of the HIPC initiative. Commercial bank debt is renegotiated within the London Club, while the International Development Association (IDA) Debt Reduction Facility provides funding for the buy-back of commercial bank debt of low-income countries.

15. The Paris Club operates on the basis of several key principles: prevention of an imminent default; conditionality and continued monitoring through implementation of IMF adjustment programmes; equitable burden-sharing among creditors based on decisions taken by consensus; and seniority of new credit (which is not reschedulable) determined by a cut-off date. The decision to seek a rescheduling rests with the debtor country. An IMF adjustment programme must be in place before a rescheduling can be agreed. In the context of the adjustment programme, estimates of both the financing gap and the need for the adjustment of the terms on existing debt are made with the assistance of IMF.[4]

16. Within the London Club, the renegotiation of sovereign debt owed to commercial banks takes place under the direction of an ad hoc advisory or steering committee, which is generally set up after a debtor has suspended payments. As in the case of the Paris Club, the debtor country should in principle have in place an IMF adjustment programme before the London Club agrees to consider its debt. Under the bank advisory committee approach, a borrower reaches an agreement with key creditors to endorse a set of terms (or menu of options) that are then presented to the entire community of bank creditors for their acceptance or rejection.

17. International debt strategies have also evolved, slowly at first, towards the recognition that in cases of insolvency, debt reductions are necessary to lift the debt overhang and allow a recovery of the debtor's economy. It took several years before creditors agreed to cancel part of the debt of concerned countries. Starting with United Nations Conference on Trade and Development (UNCTAD) resolution 165 (S-IX) adopted in 1978, in which UNCTAD recommended a cancellation of official development assistance (ODA) debt of the poorest countries, the Paris Club agreed in 1989 to reduce a third (in present value terms) of non-concessional debt of low-income countries under the Toronto terms, then half of it in 1991 under the London terms, 67 per cent in 1995 under the Naples terms, and finally 80 per cent in 1997 under the Lyon terms (but only for a small number of eligible countries in the context of the HIPC initiative). For the lower middle-income countries, the Paris Club also allowed some debt reductions through debt conversions. As repeated reschedulings involve costs for the debtor countries and contribute to further accumulation of debt, the concept of reduction of the stock of debt (instead of the flows of debt service) was introduced by the Paris Club in 1994 and allowed for an exit from a repeated cycle of debt reschedulings.

18. Although progress has been registered in the treatment of official bilateral debt, in the early 1990s many poor countries were facing enormous difficulties in servicing their multilateral debt, which in principle had a preferred status among all categories of debts.[5] In 1996, the HIPC initiative was adopted and provided a framework within which multilateral debt of eligible countries could be reduced within a time-frame of six years.

19. Within both the Paris Club and the HIPC initiative, the rules and procedures for debt relief operations concerning both country eligibility and the amount and type of debt to be reduced are strictly determined by the creditors. The most stringent conditions are perhaps those determined in the context of the HIPC initiative, which require a complex process of debt sustainability analysis (undertaken by the World Bank and IMF) and a rather long period of proven performance. Those conditions have been perhaps dictated by the lack of funding of the initiative, which does not allow

for generous and expeditious debt relief for a great number of countries in a short time span.

20. Reduction of commercial bank debt has also been gradually introduced within the London Club in the treatment of the 1980s sovereign debt crisis. The first phases of that treatment, from 1982 to 1988, relied on debt reschedulings and new liquidity support, together with a market menu of options, which allowed limited amounts of voluntary debt reductions through debt securitization at a discount, debt-equity swaps and debt buy-backs. However, that strategy resulted in increased contractual debt obligations, contributing to a further deterioration in markets' sentiment regarding debtors' creditworthiness and continued delay in the eventual restoration of their access to capital markets. By 1987, all the major banks had strengthened their capital base and boosted their loan loss reserves, while smaller banks had sold their non-performing loan portfolios on the secondary market. Resources were thus available for major debt reduction operations. In 1989, the Brady Plan was announced with unprecedented official commitment, most particularly from the United States of America, Japan and the Bretton Woods institutions, to support debt reductions in line with debt prices on the secondary market.[6] For many indebted countries, this market-based approach allowed a reduction of external debt at a significant discount.

21. The financial crises of the 1990s, particularly those of Mexico and some Latin American countries in 1995, and several East Asian countries in 1997/1998, can be distinguished from the debt crisis of the 1980s in that debt was incurred mostly by private borrowers vis-à-vis private creditors which, in the case of Mexico include a diversified group of bond holders. Those crises have to date been addressed by huge bail-out packages mobilized by IMF and very often the United States Government to avoid defaults by major debtor countries.

B. Recent developments in debt renegotiations

1. Official debt

22. As noted earlier, official debt is renegotiated within the frameworks of the Paris Club and the HIPC initiative, respectively. In 1998, attention was given by the donor community to renewed efforts to provide debt relief to the poorest countries. At the Birmingham summit of the eight major industrialized countries (G-8) held in May 1998, recommendation was made to forgive all ODA debt or take comparable action in favour of the least developed countries which have made progress in implementing economic reforms (at the end of 1997, least developed countries still owed some $16 billion of ODA debt to Organisation for Economic Cooperation and Development (OECD) countries, representing about 13 per cent of their total long-term external debt). The G-8 countries also noted the need for debt relief (including on arrears to international financial institutions) for poor countries in a post-conflict situation in order to release resources at an earlier stage for economic rehabilitation.

Paris Club

23. In 1997, activity within the Paris Club moderated, with the conclusion of fewer debt restructuring agreements as compared with earlier years: seven countries in 1997 against 15 in 1996 and 18 in 1995. Up to July 1998, six other countries had renegotiated their debts with the Paris Club. That slowing of activity reflects the fact that many countries have graduated from the rescheduling process or have received a multi-year rescheduling agreement. Among the 38 countries that have graduated or are expected to graduate from the Paris Club[7] (i.e., to be able to service obligations after expiration of the consolidation period without additional relief), 11 have received a stock treatment.[8] It is estimated that 29 countries with previous reschedulings with the Paris Club may reschedule their debt again (26 HIPCs and three middle-income countries). Thus, future reschedulings within the Paris Club will concern mostly the HIPCs in the context of the HIPC initiative.

24. The total amount of debt rescheduled within the Paris Club in 1997 is estimated at approximately $6.3 billion. Of the seven debtor countries that rescheduled in that year, only Jordan is non-HIPC and is expected to graduate from the rescheduling process thereafter. The other six countries are all HIPCs treated under the Naples terms: Ethiopia, the United Republic of Tanzania, Madagascar and Yemen obtained a 67 per cent reduction on the flow of debt service falling due during the consolidation period, while Guinea and Cameroon (with a relatively higher per capita income) had their debt service reduced by 50 per cent.

25. As of July 1998, six other countries had renegotiated their debt. Senegal received an exit stock treatment, with 67 per cent reduction, while Nicaragua and Rwanda both received a 67 per cent reduction of the flow of debt service. The Paris Club applied for the first time the Lyon terms, allowing a reduction of 80 per cent of the flows of debt service in the cases of Côte d'Ivoire and Mozambique. With regard to Mozambique, creditors made an exceptional effort,

agreeing to go even beyond the 80 per cent reduction given the very high level of debt overhang of this country. Uganda, which had received a stock treatment in 1995 (with a reduction of 67 per cent) had a "topping up" to 80 per cent (i.e., its debt was further reduced to reach the equivalent of 80 per cent reduction).

26. The Russian Federation joined the Paris Club as a creditor country in 1997. Russian claims on debtor countries will be valued at a historical exchange rate of 0.6 roubles per dollar but will be reduced by an upfront discount that will be applied when those claims are treated by the Paris Club. The discount will take into account debtors' economic and financial situation, with the poorest countries receiving a higher discount (which in some cases can reach 80 per cent). In addition to that discount, the Russian Federation will provide debt relief in line with Paris Club terms.

HIPC initiative

27. The HIPC initiative[9] builds on the existing mechanism of debt relief, including the Paris Club. If Paris Club debt reduction (and comparable treatment by other bilateral and commercial creditors) under the normal Naples terms (i.e., 67 per cent reduction) would not permit the achievement of debt sustainability at the end of a first stage of three years of adjustment and reform (the decision point), enhanced action would be envisaged during a second stage of three years, including a deepening of relief by the Paris Club (of up to 80 per cent reduction) and interim liquidity support by multilateral creditors. At the end of the second stage (the completion point), multilateral debt relief proper would be extended provided that the debtor country had met the relevant performance criteria. At that point, a stock-of-debt operation in the Paris Club would also take effect, i.e., reduction of the stock of debt.

28. The implementation of the HIPC initiative is based on the debt sustainability analysis of debtor countries. Such analysis is prepared jointly by the World Bank and IMF, in collaboration with the debtor country concerned. Target ranges for sustainable debt levels have initially been defined by the Bretton Woods institutions as 200 to 250 per cent for the debt to exports ratio expressed in present value terms, and as 20 to 25 per cent for the debt service to exports ratio. An additional criterion is a ratio of present value of debt to government revenue of 280 per cent (together with additional conditions related to a ratio of government revenue to gross domestic product (GDP) of 20 per cent and a ratio of exports to GDP of 40 per cent).

29. There is still scope for refining the concept of debt sustainability.[10] As a general consideration, criteria and target ranges should be flexible enough to take into account different debt situations and avoid the risk of excluding from the initiative those countries that truly need some degree of debt reduction. That means that in some cases, consideration should be given to applying a debt sustainability target below the ranges indicated, when it can be clearly established that the debtor countries cannot afford debt services higher than a certain level commensurate with long-term growth and human and social development objectives. Moreover, the time span of six years over the two phases is rather long when account is taken of the adjustment efforts already achieved by the HIPCs. Although the second phase has been shortened for some HIPCs that had obtained a stock treatment with the Paris Club before the launching of the initiative, it could be suggested that for all HIPCs final debt relief could be agreed, at most, one year after the decision point.

30. Consideration could also be given to the problems that many of the HIPCs may be facing – in practice – in applying the methodology of debt sustainability analysis, and to their requirements for technical assistance in that respect. They should be able to participate as equal partners in the process of implementing the HIPC initiative, and the principle of debtors' ownership of debt sustainability analysis should be ensured. There is certainly a need to strengthen HIPCs' capacity to undertake such an analysis and appraise the implications of debt relief, and to elaborate future financing and borrowing strategies in the context of their overall macroeconomic policy and development objectives. In that respect, it is worth mentioning the efforts made by UNCTAD through its Debt Management and Financial Analysis System, which aims to enhance the capacity of debtor countries to manage their debt through the use of computerized tools of debt analysis. The System will be reinforced in the future by an interface with the debt strategy module used by the World Bank for debt sustainability analysis; it is currently installed in 55 countries, of which 21 are HIPCs.

31. By mid-1998, 10 HIPCs had seen their cases reviewed under the HIPC initiative (see table 4). Benin and Senegal received an exit agreement from the Paris Club. Their debts were deemed sustainable and hence will not be considered for further relief. The decision point for the other eight countries was set for 1997 and 1999, and they will reach their completion point between 1998 and 2002. The calendar of implementation as far as is known to date indicates that at most three countries will benefit from debt relief under the initiative in 1998 and less than three countries in the following years up to 2001, a very slow process, especially

as there are 41 HIPCs in total even though not all of them will qualify for relief.

32. In April 1998, Uganda became the first country to reach its completion point. In addition to the "topping up" by the Paris Club to 80 per cent reduction, the funding of its $650 million relief package is secured. Estimates of total debt relief for five other HIPCs (Bolivia, Guyana, Burkina Faso, Côte d'Ivoire and Mozambique) amounted to $5 billion, with Mozambique alone requiring some $2.9 billion.

33. The example of Mozambique illustrates the special efforts that may be needed by creditors to provide debt relief that would allow debt sustainability thereafter. After protracted negotiations, Paris Club creditors agreed to provide relief that went beyond the 80 per cent reduction under the Lyon terms, including special treatment of post cut-off date debt. Voluntary contributions by bilateral donors helped to close the financing gap, and IMF and the World Bank provided assistance beyond their proportional share. It is expected that at the completion point in June 1999, total debt relief under the HIPC initiative would allow Mozambique to reduce its external debt from a level of $5.6 billion in present value terms at end-1996 to $1.1 billion, reducing annual debt service payments to below 20 per cent of export earnings.

34. Experiences so far indicate that arranging HIPC financing packages can be a time-consuming and difficult process. Furthermore indications of the amount of funds available raises concern over potential underfunding of the initiative. IMF has made available – including resources from the Resource Account to finance the Enhanced Structural Adjustment Facility (ESAF), funds within ESAF/HIPC Trust and special contributions by six donor countries – a total of about special drawing rights (SDR) 290 million, which appears to be short of the indicated amount of assistance committed by IMF for the countries declared eligible to date. The World Bank has transferred $750 million from International Bank for Reconstruction and Development (IBRD) net income and surplus to the HIPC Trust Fund, and eventual IDA grants would add another $700 million; that is believed to be sufficient to cover the Bank's share of the debt relief proposed for the eight countries considered eligible to date under the initiative. As of April 1998, 15 bilateral donors have made contributions or pledges to the World Bank HIPC Trust Fund of more than $200 million.

35. Moreover, the crisis in East Asia increases claims on resources and assistance globally, and there is a fear that that might lead to further reduction of funds available for assistance to the poorest countries. For instance, concern has been raised about the fact that the World Bank assistance to East Asian countries might reduce IBRD net income and surpluses, which are a source of funding for the HIPC Trust Fund.

36. Securing the necessary financing for the full implementation of the initiative and expeditious resolution of individual cases is the key issue. Any shortfall in funding would slow down further implementation and entail the risk that some HIPCs could be excluded from the initiative. Moreover, debt sustainability targets could be set too high, thereby jeopardizing the exit strategies of the initiative.

37. The need to give a stronger impetus to the HIPC initiative was recognized by the Chancellor of the Exchequer of the United Kingdom of Great Britain and Northern Ireland at the Commonwealth Finance Ministers' meeting in September 1997. The United Kingdom initiative, "Debt 2000: the Mauritius mandate", aims to have all eligible poor countries at least embarked on the HIPC process by the year 2000, and to have by that time firm decisions on the amounts and terms of debt relief for at least three quarters of those countries. The initiative also includes proposals for more flexible interpretation of Paris Club rules (e.g., applying relief to post cut-off date debts, where necessary), shortening of the six-year period of required performance for countries with strong performance records, and giving debtor countries a stronger voice in the negotiations. The sale of gold by IMF was mentioned as a possible mechanism for increasing IMF contributions to the initiative. The target year of 2000 has been subsequently endorsed by the Development Committee in April 1998, as well as by the G-8 countries at the Birmingham summit in May 1998.

2. Commercial debt

Debt buy-back and Brady bonds[11]

38. Between 1989 and 1997, officially supported programmes and associated market swap operations reduced developing countries' debt to commercial banks by $53.2 billion, equivalent to 23 per cent of the $231.2 billion of eligible commercial bank debt. Eighteen low-income countries have extinguished $12.6 billion of the $18.2 billion of eligible principal and interest arrears due to commercial banks under the IDA Debt Reduction Facility, and more recently under the Brady Plan. Fifteen middle-income countries have reduced by 20 per cent their commercial bank debt of $213 billion.

39. In 1997, four low-income countries concluded debt and debt service reduction agreements with commercial banks. Agreements under the Brady Plan, with financial contributions from IDA and bilateral donors, allowed Côte

d'Ivoire to reduce its debt to commercial banks by $4.1 billion in nominal terms, or close to 63 per cent of the total amount restructured, and allowed Viet Nam to reduce its commercial bank debt by $237.6 million, equivalent to 30 per cent of the amount restructured. Togo concluded an agreement sponsored by the IDA Debt Reduction Facility, which allowed a write-off of $28.9 million of past due interest and a buy-back of $46 million at 12.5 cents per dollar. Bosnia and Herzegovina concluded an agreement to restructure $1.3 billion debt of commercial banks under the aegis of the London Club: interest arrears were forgiven, while eligible principal of $400 million was exchanged for $400 million of uncollateralized bonds, also allowing repayments to be linked to the country's economic performance.

40. An important development during the past two years was the swapping of Brady bonds by some middle-income countries. In 1996, Mexico and the Philippines swapped $4.4 billion of their Brady bonds for uncollateralized long-term bonds. In 1997, Argentina, Brazil, Ecuador, Panama and Venezuela retired $10.4 billion of collateralized Brady bonds through swaps against uncollateralized long-term bonds, effected at a discount based on secondary market prices. Those swap operations show the renewed confidence of foreign investors in those countries, as the spreads over the bonds issued by middle-income countries were considerably reduced during the last two years. Debtor countries derived two benefits from those operations: released collateral can be used to meet other obligations, and since the swap is effected at a discount based on secondary market prices debt outstanding is commensurately reduced.

41. Debt conversion programmes have also played an important role in commercial debt restructuring in the past, but such activity has declined recently. Interest in such programmes has decreased as rising secondary market prices reduced the discount that could be captured by investors; specific privatization programmes that were linked to such activity have turned to other instruments or have been winding down; debt renegotiations under the Brady Plan allowed more flexibility. Debt-for-nature conversion programmes have also been declining over time, but other debt-for-development swaps increased in 1997, with focus likely to be shifted in the future to claims held by official creditors.

Recent debt strategies in the cases of middle-income countries

42. The debt crises of Mexico in December 1994 and of Thailand, the Republic of Korea and Indonesia in 1997 provide a diverse set of experiences of debt crisis handling. The causes of the crises in those countries share some similarities, as well as some notable differences. The paths taken to the eventual solution of the debt problems are surprisingly diverse. Furthermore, the type of debt that required restructuring was different: in the case of Mexico, debt took the form of short-term government bonds, while in the three most affected Asian countries, it was short-term debt contracted by the private sector from foreign banks.

Mexico (December 1994)

43. The large current account deficits recorded in the years directly preceding the crisis emanated from private-sector activity. The public sector was at the time running a broadly balanced budget, although government expenditure was partly funded by short-term dollar denominated bonds (*tesobonos*). Given the large current account deficit, the sluggish economic growth and the apparently overvalued exchange rate, investors began to express concern, especially following some destabilizing political events. Exchange rates were not adjusted until foreign exchange reserves had fallen to an extremely low level in late December 1994. Following the flotation of the peso on 22 December, a lack of confidence on the part of portfolio investors precipitated large-scale repatriation of their financial investments. In such a situation, given a level of foreign exchange reserves much lower than that of short-term liabilities – foreign exchange reserves amounted to $6 billion, while short-term foreign liabilities amounted to $74.6 billion if $24.1 billion in interbank debt was included – the Mexican Government was quickly faced with an acute liquidity shortfall.

44. Taking a close interest in the development of the Mexican crisis, the United States Government first arranged an $18 billion rescue package on 2 January 1995 without direct IMF involvement. When that failed to stop investors' panic due to the existence of still larger short-term obligations, the United States led a rescue package of $51.8 billion, in which IMF figured prominently. The package was then large enough to provide complete cover for maturing debt obligations (as interbank debt was rolled over), and the crisis could therefore be overcome. Mexico was very quickly able to re-establish capital market access and to make early repayments of loans extended by the United States, although a severe recession followed in 1995, with a contraction equivalent to six per cent of GDP.

45. The rescue is notable in that there was no attempt to restructure the debt profile, probably because debt was largely in the form of bonds that had been widely dispersed among portfolio investors. It would have been extremely

difficult to locate the creditors and to organize a mechanism through which restructuring could be negotiated, and the free-rider problems would have been uncontrollable.

Thailand (1997)

46. In the case of Thailand, the crisis emanated partially from a deteriorating current account position, as in Mexico. There was also a fixed exchange rate that may have contributed to a growing loss of competitiveness since the baht was pegged to a rising dollar. Other causes of the growing deficits included the slowing demand for Thai exports in international markets, particularly electronic exports, and rising domestic unit labour costs. In addition, there was excessive investment in speculative assets, such as real estate and stocks, which rendered the banks and finance companies vulnerable to an economic slowdown. That was a symptom partly of inadequately vigorous regulation and supervision, but also of the credit boom that often tends to fuel such investments. The build-up of private-sector debt began in about 1993, when the Bangkok International Banking Facility was established, and continued until 1997 as domestic agents took advantage of lower foreign interest rates. The fixed exchange rate also provided an implicit assurance to market participants, who saw no need to hedge foreign borrowing. The high level of unhedged private external debt made the option of devaluing the baht a painful choice that was avoided until foreign exchange reserves had been nearly exhausted in defending the exchange rate. In that case, usable reserves were negligible due to the commitment of the major part of total reserves to commitments in forwards contracts. The baht was floated on 2 July 1997.

47. As in the Mexican case, investors lost confidence in the Thai economy, and rushed to liquidate and repatriate their investments before a potential default and while foreign exchange reserves remained available. Unlike in the somewhat unusual case of Mexico, in which a great power took the lead in providing liquidity, in the Thai case IMF played the major role in dealing with the crisis. On 11 August 1997, a $16.7 billion rescue package was agreed with IMF, which was not sufficient to cover private-sector short-term obligations of approximately $31.9 billion[12] as at end-1997 (the public sector actually had no short-term obligations).

48. In solving the crisis, the Government took a two-pronged approach. First, the financial sector, which accounted for the bulk of private short-term debt (82 per cent or $26 billion at end-1997) was restructured, with many insolvent institutions closed (56 of 58 finance companies were closed). Regulation and supervision were also strengthened. At the same time, the Government provided a guarantee over deposits in the financial system in order to avoid a systemic crisis. In order to attract funding that would provide liquidity and further restructure the financial system, the Government removed limits on foreign ownership of Thai financial institutions, and allowed for a 10-year period 100 per cent foreign ownership. In addition, the bankruptcy laws, which made it extremely difficult for creditors to press their claims, are being revamped, including the foreclosure laws. Recent press reports cast doubt, however, over the willingness of foreign investors to take equity positions in local financial institutions under current circumstances without some type of support from the Thai Government.[13]

49. The second prong of the strategy was to deny the non-financial private sector any public sector guarantee or financial support, and to thereby force it to negotiate debt restructuring directly with creditors. The negotiation process will be facilitated by the new bankruptcy law. The problem with short-term debt is less severe for the non-financial private sector as the bulk of such obligations were contracted by financial institutions.

50. The cost of the solution to the Government will be very high due to the expense involved in the provision of liquidity to the financial sector during the crisis, the cost of deposit guarantee, and the cost of restructuring and recapitalizing distressed financial institutions.

51. During the crisis, a major impediment to economic recovery proved to be the unavailability of trade finance. As in the cases of the Republic of Korea and Indonesia, international banks were unwilling to accept trade credits drawn on Thai banks but were also very reluctant to extend trade credit themselves. That did not allow the financing of short-term working capital requirements of many Thai firms that was needed to expand production of exports.

Republic of Korea (1997)

52. In many respects, the case of the Republic of Korea was similar to that of Thailand: the private sector debt was for the major part contracted by the financial system. However, that resulted from the restrictions on borrowing abroad by the non-financial private sector. The genesis of the crisis was similar to that of the Thai case as well. During the 1990s, large business groups of the Republic of Korea (*chaebols*) expanded quickly through financing from domestic banks, becoming highly leveraged (with an average debt to equity ratio of about 400 per cent in 1997). The banks borrowed heavily abroad due to attractive foreign interest rates, and onlent the funds to corporate clients. When

economic growth rates fell in 1996 and 1997, some of the largest *chaebols* were unable to meet debt obligations and became illiquid or insolvent. which in turn placed great pressure on the banks since their large clients could no longer meet their obligations. As a result of the rise in non-performing loans and the deterioration in the financial position of domestic banks, foreign creditor banks became increasingly unwilling during 1997 to roll over short-term interbank loans. Foreign currency became scarce and a liquidity problem developed, leading the Government to liberalize foreign investment limits and ease access of domestic non-financial firms to foreign credit.

53. On 3 December 1997, a record $21 billion IMF standby agreement was agreed as part of a $60 billion international rescue package. With total short-term obligations estimated at $68.4 billion,[14] the package thus covered 88 per cent of those obligations. Because of the severe shortage of foreign exchange and the possibility of default, some of the funds were disbursed immediately upon agreement of the package. The suitability of the tight credit and high interest rate policies in the case of the Republic of Korea, given the high leverage position of its private firms, is beyond the scope of the present report. Suffice it to say that many questions have been raised in that regard. On 16 December 1997, the won was floated. On 17 December 1997, IMF created the Supplementary Reserve Facility (SRF), and on 24 December 1997 it rapidly organized funding for the Republic of Korea through that faster-disbursing mechanism in order to avoid an imminent debt default by the Republic of Korea. The SRF is designed to quickly provide financial assistance to countries experiencing external payments difficulties due to large short-term financing needs resulting from a sudden loss of market confidence.

54. The Korean approach to solving the short-term debt crisis followed the approach taken during the 1980s crisis. A Korean negotiating team met with a steering committee of international creditor banks to negotiate a restructuring of the short-term debt. A temporary agreement was reached with some creditor banks on 28 December 1997 to roll over some short-term loans, and then on 28 January 1998 a broad agreement was reached with a group of 13 major international creditor banks on a plan to extend the maturities of approximately $24 billion in short-term loans (excluding trade credit) into longer-term loans. Those banks also agreed to continue rolling over the existing loans until all details had been agreed. The refinancing agreements were to be completed by March 1998 but would be voluntary on the part of creditors. At the 17 March 1998 deadline for agreements on refinancing of the short-term debt, restructuring deals had been reached with 134 banks from 32 countries, covering a total of $21.9 billion that had been converted into loans with a maturity of between one and three years. That reduced the short-term component of the debt load from 44 per cent of the total as at end-1997 to 30 per cent as at end-March 1998. As a part of the deal, the Government issued bonds in order to cover a guarantee of the refinanced loans. The Government followed up on the debt restructuring by directing the banks to arrange corporate restructuring of distressed indebted firms.

55. The cost to the Government of the Republic of Korea of the solution to the debt crisis will also be high, including the guarantee of the refinanced loans and the cost of financial sector restructuring and recapitalization of financial institutions. The Government had also at one point in time guaranteed the deposits of the financial sector, which could also prove costly. As in the Thai case, the lack of trade credit made the recovery more difficult because of the lack of capital to fund accelerated production of exports.

Indonesia (1997)

56. The Indonesian case shares some similarities with both the Thailand and Republic of Korea debt crises, although occurrence of crisis might be largely attributed to contagion effects since at the time of the outbreak of the crisis this country ran what appeared to be largely sound traditional fundamentals. There were nevertheless serious inadequacies in regulation and supervision of the financial system that, as in Thailand and the Republic of Korea, transmitted the financial crisis into a crisis in the real economy. In the Indonesian case, the debt indicators are significantly worse than in the other cases, which raises the possibility that the crisis may present a solvency rather than a liquidity problem.

57. Following the float of the Thai baht on 2 July 1997, Indonesia (and a number of other countries in the region) experienced pressure on its currency. As a result, the rupiah was floated on 14 August 1997. On 31 October 1997, agreement was reached on a $38 billion rescue package, including a $10.14 billion IMF standby arrangement. Short-term debt of the Indonesian private sector is estimated at some $80 billion,[15] so that the rescue package covered approximately 48 per cent of private-sector short-term debt.

58. However, the IMF agreement was not strictly adhered to, and on 15 January 1998 a revised agreement was reached. Once again, the programme was not strictly implemented although a significant number of agreed measures were taken. The two programmes were criticized for ignoring the need to settle the debt crisis. Indeed, given the distressing debt indicators for Indonesia it is likely that economic

stability would not have been possible without a debt restructuring agreement. The Government, in collaboration with IMF, began efforts to devise a solution to the debt crisis. On 27 January 1998, a top Indonesian official stated that many firms would need "a temporary pause" in servicing their foreign debt, raising fears of a possible Indonesian debt moratorium. There was finally no official moratorium. On 9 March 1998, the IMF Managing Director warned that the rescue programme was at risk if stricter compliance with the agreement of 15 January 1998 was not forthcoming. Extended negotiations commenced with IMF on a third revised agreement that would include provisions on the handling of the debt crisis by the Government. A supplementary memorandum to the 15 January 1998 agreement with IMF was finally reached on 10 April 1998, by which time the framework for agreement on a restructuring of the debt had been largely agreed between an Indonesian negotiating team and the creditor bank steering committee, with input from IMF and the World Bank.

59. By 8 April 1998, the framework for negotiation of debt restructuring had taken on a form very similar to the plan set up by Mexico as part of the negotiated solution with its creditor banks in 1982. A deal was finally reached in June 1998 on the restructuring of interbank debt, corporate debt and trade credits. The plan takes effect from 1 August 1998, and is centred around a new institution, the Indonesian Debt Restructuring Agency (INDRA). INDRA will act as an intermediary and guarantee a supply of foreign exchange for private firms that take part in the plan. Firms will make rupiah payments to INDRA equivalent to the dollar amount of their short-term debt valued at a predetermined exchange rate, and INDRA will make the payment to the creditor bank in dollars. INDRA will provide that service only if creditors extend maturities of firms' short-term debt into loans with maturities of between one and four years. Participation by debtor firms is voluntary, and requires negotiation between the debtor firm and its creditors. As part of the agreement, creditor banks promised to maintain trade finance for Indonesian firms at levels existing as of end-April 1998. Indonesian banks were required to repay all past-due debts during June 1998 (estimated to amount to $4.5 billion). Both the new refinanced loans and the trade credit lines will be guaranteed by Bank Indonesia. According to one report, the deal potentially covers $80 billion in private debt.

60. Later in 1998, in response to continued economic turmoil, Indonesia's international donors agreed on 30 July 1998 to provide an unprecedented $7.9 billion in aid during 1998. The aid pledges followed an additional $6.3 billion IMF package that reportedly included a voluntary and "informal" Paris Club rescheduling of official debt.[16]

61. As in the cases of Thailand and the Republic of Korea, there was a negative influence on the process of adjustment and recovery exerted by the dearth of trade finance. The inclusion of provisions relative to the provision of trade finance in the agreement was notable.

62. The cost of the debt crisis to the Government will be high, and will include the guarantee given under the INDRA plan, as well as the cost of providing liquidity to the banking system and of financial sector restructuring and recapitalization of financial institutions. In March 1998, analysts estimated that recapitalization of the banking sector alone would cost over $20 billion.

IV. International policy conclusions

63. Debt is making a comeback as a burning problem on the international agenda. The slow process of implementation of the HIPC initiative and the frequency of financial crises affecting middle-income countries following their rapid integration into the global financial markets are sources of concern for the international community. A proposal has been made to set up an independent commission, appointed by agreement between creditors and debtors, to assess the debt sustainability of developing countries.[17] An important factor behind the apparent failure to deal with the debt problems in an expeditious way is the insufficient level of financing of debt relief or debt rescue packages.

64. As can be gleaned from the above discussion, IMF remains the linchpin of international debt workout approaches, whether in the framework of the Paris Club, the London Club, the HIPC initiative or recent debt rescue packages for middle-income countries. That situation is not likely to change in the foreseeable future since the international creditor community attaches importance to the role that IMF is playing in two respects:

(a) To prevent moral hazard behaviour of debtor countries, by imposing and monitoring adjustment programmes on those countries;

(b) To mobilize necessary finance (often with the support of and contributions from major creditor countries).

65. Such an approach might tilt too much towards controlling debtor countries and not giving them a voice in determining their own debt sustainability objective. Furthermore, too much burden is put on the official sector

in providing bail-out finance for private creditors without sufficiently involving the latter in an equitable burden-sharing arrangement.

A. The HIPC initiative

66. It is a matter of concern that the implementation process of the HIPC initiative is very slow: two years have elapsed since its launching and yet only one country (Uganda) has benefited from the full-fledged relief as provided by the initiative. The calendar of implementation seems to indicate that at most three countries will be considered each year. The slowness of the process may be due to two factors:

(a) The lack of adequate funding for an expeditious resolution of all eligible cases;

(b) The complexity of the process itself, with its complicated methodology for determining debt sustainability and for working out a burden-sharing framework among creditors.

67. In order to accelerate the implementation of the HIPC initiative and embark all eligible poor countries on the HIPC process by the year 2000, as called for by the "Mauritius mandate", it is suggested:

(a) To simplify debt sustainability analysis[18] and fully involve debtors in determining sustainability criteria (debtors' ownership of debt sustainability analysis);

(b) To shorten the implementation period for individual countries: the interval between the decision point (end of the first ESAF programme) and the completion point should be shortened to one year;

(c) That the World Bank and IMF mobilize an adequate amount of financing in order to secure an expeditious review of all eligible HIPC countries by the year 2000, which might involve the sale of part of IMF gold holdings;

(d) That increased contributions be made by bilateral donors to the HIPC Trust Fund to allow the debt of other multilateral institutions, especially the African Development Bank, to be dealt with adequately;

(e) That, for the poorest among the HIPCs, urgent consideration needs to be given to bolder actions, including conversion into grants of all remaining official bilateral debt and clearing of the entire stock of debt if warranted (see A/52/871-S/1998/318).

B. Debt workouts for middle-income countries

68. The repetitive occurrence of financial crises in developing countries is a matter of serious concern for the international community. It is clear that the degree of official funding being disbursed in response to debt crises has escalated rapidly and threatens to become unsustainable. The sheer size of financial rescue packages and the rapid contagion of liquidity crises have raised doubt about the capacity of IMF to mobilize emergency financing of the magnitude required by countries in distress. As noted by Mr. Robert Rubin, United States Treasury Secretary, in a world in which trillions of dollars flow through international markets every day, there is simply not going to be enough official financing to meet the crises that could take place.[19]

69. In addition, there is the concern that the current bail-out strategy risks creating a moral hazard for at least some lenders that have not been forced to bear the full risk of the credits they have extended. Providing official financial assistance might shield creditors and investors from the consequences of bad decisions and sow the seeds of future crises. The need to involve private creditors more fully in sharing the burden involved in such crises has recently been voiced in the report of the G-8 finance ministers to heads of State for the Birmingham summit in May 1998, by the IMF Managing Director and by the United States Treasury Secretary.

70. The G-8 report noted that there will always be pressure in the event of a crisis to act quickly to stabilize the situation, and that ways must be found in which that could be done without implicitly insuring debts to the private sector.

71. Several suggestions have been made to devise international frameworks based on a few principles that would:

(a) Allow the debtor a breathing space while restructuring its economy;

(b) Provide interim finance (particularly trade finance);

(c) Ensure equitable burden-sharing with private creditors;

(d) Lead to an orderly long-term renegotiation of debts.

72. Arguments have been made for the application at the international level of bankruptcy procedures often applied to enterprises at the country level.[20] Those procedures serve

two economic purposes.[21] First, by specifying *ex ante* rules for the distribution of partial or delayed payments on impaired debt claims among different classes of creditors, they reduce uncertainty and moral hazard. Second, by providing the debtor with temporary protection from its creditors and access to interim finance, bankruptcy procedures enable an enterprise whose intrinsic value exceeds its break-up value to continue to operate.

73. The proposal to establish an international bankruptcy court for sovereign debtors that would be empowered to declare a standstill, negotiate a debt restructuring, promote adjustment by the debtor country, organize settlement terms and inject interim finance has been generally dismissed on several grounds.[21, 22] First, private creditors would be reluctant to forego their recourse to national courts. Second, creating an international court could alarm investors and raise the cost of borrowing by developing countries. Third, national courts can replace the management of a firm and can seize its assets; those sanctions cannot and should not be applied to sovereign Governments.

74. Attention has been rather directed towards developing more workable mechanisms involving private creditors that would allow debtors a breathing space by declaring a debt standstill, while maintaining access to interim finance. Such a mechanism would involve more active IMF lending into arrears and the possibility for debtors to have recourse to IMF article VIII 2(b) to suspend payments and impose exchange controls, which would address the first three principles mentioned above.

75. The aforementioned G-10 report notes that a fundamental principle underlying all contracts is that the terms and conditions are to be met in full and on time, and strongly endorses that principle; at the same time, it recognizes that in certain exceptional cases, the suspension of debt payments may be part of the crisis resolution process, and that temporary payment suspensions are a way of gaining time when a crisis occurs.

76. The report also notes that it must be recognized that if suspension of payments is extended to obligations of the private sector, that may require the use of formal or informal exchange controls. Resort to such controls aims at slowing a "rush for the exit" by holders of claims, including domestic holders, which have come to believe that a suspension of payments on their claims can soon occur.

77. Some formal framework is needed to prevent moral hazard behaviour by debtors and to allow payments suspensions which are part of a process of cooperative and non-confrontational debt renegotiation between debtors and creditors.[23] There are no formal means for explicitly approving decisions by sovereign debtors to suspend payments. There seems, however, to be some convergence of views that a policy of lending into arrears potentially provides IMF and the official community with the opportunity to manage crises by signalling confidence in the debtor country's policies and longer-term prospects. The G-10 report recommends that the scope of its application should be extended, while remaining mindful of the need for prudence and the maintenance of strict conditionality.

78. Currently, IMF normally requires that all arrears to creditors be settled or agreement be close at hand on the clearing of arrears before funding is disbursed. IMF would place conditions on its willingness to lend into arrears, i.e., IMF would continue to provide financing to countries even when those countries are behind on the debt payments to some private creditors, such that the country must implement an adjustment and reform plan and must seek a negotiated restructuring with creditors in good faith. That arrangement would involve private creditors in negotiating terms of a restructuring: the provision of financial support by IMF can improve the bargaining position of the debtor, and combined with the adjustment programme, can signal to the unpaid creditors that their interest is best served by quickly reaching an agreement with the debtor. At the same time, suspension of payments will lower the immediate foreign exchange requirements and reduce considerably the size of a rescue package. A faster disbursing mechanism should also be utilized by IMF to provide the working capital (trade finance) that would be required for the country to operate under that scenario.

79. Long-term renegotiation of debt owed to commercial banks can take place in the framework of the London Club. Consideration should be given to extend the benefit of debt reductions under the Brady Plan to the "new debtors".

80. In the case of bonds, there exists no framework for an orderly renegotiation of those debt securities. It is worth giving serious consideration to the G-10 proposal for inclusion of special clauses in debt contracts to allow for collective representation of creditors and qualified majority voting on changing the terms of the contract, and to force sharing of proceeds of debt repayments. Although those suggestions raise a number of concerns that should be considered, they appear to provide a reasonable and practical means of facilitating discussion between creditors and debtors following the eruption of a financial crisis where bondholders represent the major creditor group. As has been noted, however, the inclusion of such clauses would need to be consistently applied among developing and developed countries alike in order to avoid the negative signal that

could arise from their inclusion under other circumstances.[21, 24]

Notes

[1] It is generally recognized that a ratio of debt to exports exceeding 200 per cent and a ratio of debt service to exports exceeding 20 per cent would signal serious debt problems.

[2] The analysis of the five Asian and five Latin American countries in the present section is based on available data published by J. P. Morgan Bank in *World Financial Markets*, as reproduced in table 2 below. Those data are not necessarily comparable with World Bank data, especially concerning short-term debt. World Bank data do not include the Republic of Korea, and do not indicate 1997 estimates for individual countries. For that reason, J. P. Morgan Bank estimates are used here since they show a consistent set of data that can be used for a comparative analysis of the 10 countries.

[3] To be more accurate, the relevant foreign exchange reserves figure is the amount of free foreign exchange reserves, excluding commitments resulting from transactions in the forward currency market.

[4] Most of the time, the rescheduling terms assumed by IMF financing projections are endorsed by Paris Club creditors, leaving very little room for the debtor country to negotiate during its meeting with Paris Club creditors.

[5] In 1993 and 1995, UNCTAD drew the attention of the international community to the heavy burden of multilateral debt; see UNCTAD, *Trade and Development Report, 1993 and 1995*.

[6] For a good account of the 1980s debt strategies, see the report by the Economic Commission for Latin America and the Caribbean, entitled "Latin America and the Caribbean: options to reduce the debt burden", 1990.

[7] IMF has estimated that the middle-income countries that have graduated from the Paris Club have achieved significant progress in macroeconomic stabilization and structural reforms that have enhanced their access to private foreign financing; see IMF, *Official Financing for Developing Countries, 1998*, table 14, p. 31.

[8] The 11 countries that have received stock treatment are Egypt and Poland in 1991 (with 50 per cent debt reduction in present value terms); Uganda and Bolivia in 1995 (with initially 67 per cent reduction, subsequently topping up to 80 per cent debt reduction in 1998); Benin, Burkina Faso, Guyana and Mali in 1996 (67 per cent reduction); Peru (agreement signed in 1996, with subsequent reprofiling of the stock of debt scheduled for 1999); the Russian Federation (agreement signed in 1997, with subsequent reprofiling of the stock of debt scheduled for 1999); and Senegal in 1998 (67 per cent reduction).

[9] For a detailed description of the HIPC initiative, see A. Boote and K. Thugge: "Debt relief of low-income countries and the HIPC initiative", IMF Working Paper, WP/97/24 (Washington, D.C., March 1997).

[10] For a critique of debt sustainability concepts used within the HIPC initiative, see UNCTAD, *Least Developed Countries, 1997 Report*, p. 34.

[11] The present section draws on World Bank: *Global Development Finance, 1998*, appendix 3, "Commercial debt restructuring", pp. 83-102.

[12] That estimate of short-term debt is reported in the press, and differs from the amount of short-term debt reported by J. P. Morgan Bank (see table 2), which shows an amount of $28.6 billion; differences in estimates betray difficulties in collecting accurate information on short-term debt.

[13] See "Thailand prepares 'drastic measures' to prop up banks", *Financial Times*, 3 August 1998; and "Thai bail-out plan seeks to lure foreign investors", *Financial Times*, 6 August 1998.

[14] That estimate of short-term debt is reported in the press, and differs from the amount of $52.8 billion estimated by J. P. Morgan Bank (see table 2); the remark made in footnote 12 applies here. The exact amount of short-term debt of the Republic of Korea as at end-December 1997 has been a matter of some uncertainty. In late December 1997, authorities of the Republic of Korea disclosed that the actual figure was approximately $100 billion. In that case, the rescue package covered about 60 per cent of short-term foreign debt.

[15] That amount of short-term debt is the current estimate as reported by the press; it differs notably with the estimate of $36.8 billion shown by J. P. Morgan Bank (see table 2).

[16] See "Indonesia on track for debt rescheduling", *Financial Times*, 23 July 1998; and "Donors agree $7.9 billion more for Indonesia", *Financial Times*, 31 July 1998.

[17] See UNCTAD, *Trade and Development Report 1998*, forthcoming.

[18] Proposals to simplify debt sustainability criteria by using the debt stock concept instead of the present value concept and by using simple debt service ratios have been made in UNCTAD, *Trade and Development Report 1977*, box 3, p. 50.

[19] See statement by United States Treasury Secretary to IMF Interim Committee, *Treasury News*, 16 April 1998.

[20] The forthcoming UNCTAD *Trade and Development Report 1998* contains a discussion on the possibility of applying bankruptcy procedures and principles to international debt workouts.

[21] A report by the Group of 10 on the resolution of sovereign liquidity crises of May 1996 also discussed many options for orderly debt workouts.

[22] See Peter B. Kenen, Lawrence H. Summers, William R. Cline, Barry Eichengreen, Richard Portes, Arminio Fraga and Morris Goldstein, "From Halifax to Lyon: what has been done about crisis management?", *Essays in International Finance*, No. 200 (Princeton University, October 1996).

[23] A distinction is sometimes made between unilateral payment suspension by debtors ("moratoria") and those undertaken with the explicit or implicit agreement of the creditors ("standstills").

[24] See Barry Eichengreen and Richard Portes, "Managing the next Mexico", in Peter B. Kenen et al., op. cit.

Table 1

External debt of developing countries, 1996-1997

(Billions of United States dollars)

	All Developing Countries		Asia [a]		Africa [b]		Sub-Saharan Africa		Latin America		Europe and Central Asia	
	1996	1997 [c]	1996	1997 [c]	1995	1996	1996	1997 [c]	1996	1997 [c]	1996	1997 [c]
total debt stock [d]	2095.4	2171.4	629.3	665.8	329.6	323.5	227.2	222.6	656.4	677.9	370.2	388.8
long-term debt	1650.1	1728.5	494.2	529.5	277.1	269	179.1	179.2	517.6	537.6	297	315.7
public and publicly guaranteed	1397.1	1428.8	391.9	406.6	266.5	258.8	169.6	168.3	407	413	270.1	283.5
private non-guaranteed	253	299.7	102.3	122.9	10.5	10.2	9.5	10.9	110.6	124.6	26.9	32.3
bonds	346.1	302.7	55.6	33.1	5.7	6.4	5.6	9.4	51.7	32.4	47.9	52.3
short-term debt	385.2	381.4	130.2	126.4	41.9	43.8	39.6	35.7	114.9	120.8	53.1	51.4
interest and principal arrears on LDOD	145.2	98.5	16.2	14.9	62.3	61.1	60.7	52.0	11.2	11.0	44.5	9.6
debt service	261.8	269.2	78	76.5	26.1	25.7	14.5	12.6	107.1	120	40.4	40.3
Debt indicators (percentage)												
debt service/exports	17.2	16.7	14.3	13.1	18.3	16.3	14.2	11.5	13	11.7	11.4	10.6
debt stock/exports	137.4	134.3	115	113.9	230.7	204.7	221.6	201.7	101.8	102.6	104.8	102
debt stock/GNP	36	34.9	31.8	30.5	77.1	70.7	77.8	71.2	46.1	42.7	33.5	32.2
short-term debt/reserves	63	59.4	52.9	48.8	n/a	n/a	147.8	116.3	69.8	70.8	54.2	49.9

Source: World Bank, *Global Development Finance*, 1998.

[a] Including East Asia, South Asia and the Pacific.
[b] Including sub-Saharan Africa, plus Algeria, Morocco and Tunisia.
[c] Estimate.
[d] Including the use of IMF credit.

Table 2

External debt of five Asian and five Latin American middle-income countries, 1996-1997

(Billions of United States dollars)

Indonesia	1996	1997*
total debt stock	132.8	137.4
long-term debt	91.5	100.6
short-term debt	41.3	36.8
debt indicators (percentage)		
external debt/GDP	55	65
external debt/exports	216	225
interest payments/exports	12	14
short-term debt/reserves	172	180

Republic of Korea	1996	1997*
total debt stock	146.2	136.6
long-term debt	58.5	83.8
short-term debt	87.7	52.8
debt indicators (percentage)		
external debt/GDP	27	32
external debt/exports	83	83
interest payments/exports	3	4
short-term debt/reserves	258	250

Thailand	1996	1997*
total debt stock	96.6	95.2
long-term debt	60.6	66.6
short-term debt	38	28.6
debt indicators (percentage)		
external debt/GDP	51	63
external debt/exports	124	116
interest payments/exports	7	7
short-term debt/reserves	101	109

Malaysia	1996	1997*
total debt stock	42	44.7
long-term debt	30.8	31.9
short-term debt	11.2	12.8
debt indicators (percentage)		
external debt/GDP	40	43
external debt/exports	45	45
interest payments/exports	1	2
short-term debt/reserves	41	59

Philippines	1996	1997*
total debt stock	50.1	52.3
long-term debt	37.5	39.7
short-term debt	12.6	12.6
debt indicators (percentage)		
external debt/GDP	57	62
external debt/exports	118	104
interest payments/exports	6	6
short-term debt/reserves	126	173

Argentina	1996	1997*
total debt stock	105.4	109.3
long-term debt	89.9	94.6
short-term debt	15.5	14.7
debt indicators (percentage)		
external debt/GDP	34	33
external debt/exports	315	313
interest payments/exports	18	21
short-term debt/reserves	86	65

Brazil	1996	1997*
total debt stock	196	195.6
long-term debt	140	152.9
short-term debt	56	42.7
debt indicators (percentage)		
external debt/GDP	25	24
external debt/exports	309	289
interest payments/exports	21	21
short-term debt/reserves	96	85

Mexico	1996	1997*
total debt stock	167.5	154.7
long-term debt	128.8	116.9
short-term debt	38.7	37.8
debt indicators (percentage)		
external debt/GDP	52	40
external debt/exports	147	122
interest payments/exports	12	9
short-term debt/reserves	199	131

Chile		
total debt stock	24.4	26.3
long-term debt	21.8	25
short-term debt	2.6	1.3
debt indicators (percentage)		
external debt/GDP	33	33
external debt/exports	115	116
interest payments/exports	7	6
short-term debt/reserves	18	8

Venezuela	1996	1997*
total debt stock	33.4	32.3
long-term debt	31	30.2
short-term debt	2.4	2.1
debt indicators (percentage)		
external debt/GDP	53	38
external debt/exports	131	119
interest payments/exports	6	7
short-term debt/reserves	18	13

Source: J. P. Morgan, *World Financial Markets*, third quarter, 1998.

[a] Estimate.

Table 3

External debt of the heavily indebted poor countries, 1992-1996

(Billions of United States dollars)

	1992	1993	1994	1995	1996
Total debt stock	228.7	235	246.5	254.2	245.1
long-term debt	191.7	195	205.1	209.4	201.3
public and publicly guaranteed	186.9	190	200.4	204.6	195.6
private nonguaranteed	4.8	4.9	4.7	4.8	5.6
bonds	2.6	2.8	2.8	2.7	2.5
short-term debt	30.4	33.7	34	36.8	35.7
Interest and principal arrears on LDOD	53.5	64.1	74.6	83.2	80.7
debt service	9.8	7.7	9.2	11.8	11.1
debt indicators (percentage)					
debt service/exports	20.5	16.6	18.9	20.4	15.9
debt stock/exports	460.7	494.8	493.4	431.4	343.7
debt stock/GNP	140.7	154.4	165.7	148.4	126.7

Source: World Bank, *Global Development Finance*, 1998.

Table 4

HIPC initiative: status of early cases

	Date of PC	Decision Point	Completion Point	Estimation total: nominal debt service relief (Millions of US$)
Countries which had received a stock treatment with the Paris Club (PC)				
Uganda	Feb-95	Apr-97	Apr-98	650
Bolivia	Dec-95	Sep-97	Sep-98	600
Guyana	May-96	Dec-97	Dec-98	500
Mali	May-96	Sep-98	Dec-99	-
Burkina Faso	Jun-96	Sep-97	Apr 2000	200
Benin	Oct-96	Debt-sustainable		-
Senegal	Jun-98	Debt-sustainable		-
Countries which had received a flow rescheduling with the Paris Club (PC)				
Guinea-Bissau	For the country	1999 (possibly)	2002 (possibly)	-
Côte d'Ivoire	Apr-98	Mar-98	Mar 2001	800
Mozambique	Nov-96	Apr-98	Jun-99	2900

Source: Adapted from various official documents of IMF and the World Bank.

Table 5

Distribution of loans from BIS reporting banks, selected Asian countries

Positions vis-à-vis	Consolidated cross-border claims in all currencies and local claims in non-local currencies						
		Distribution by maturity			Distribution by sector		
	Total *(billions of US dollars)*	Up to and including one year	Over one year up to two years	Over two years	Banks	Public sector	Non-bank private sector
		(percentage of total consolidated claims)					
Group total							
mid-1996	337.8	63.3	5.5	31.1	43.6	9.8	46.4
end-1996	367.0	61.5	5.6	32.9	43.3	9.0	47.6
mid-1997	389.4	62.2	4.9	32.9	44.0	7.4	48.5
end-1997	381.0	60.6	5.4	34.0	40.7	7.4	51.8
Korea South							
mid-1996	88.0	70.8	3.9	25.3	65.7	6.7	27.4
end-1996	100.0	67.5	4.1	28.4	65.9	5.7	28.3
mid-1997	103.4	67.9	4.0	28.1	65.1	4.2	30.6
end-1997	94.2	63.1	5.5	31.3	59.4	4.2	36.3
Indonesia							
mid-1996	49.3	60.0	7.0	32.9	20.5	13.3	66.2
end-1996	55.5	61.7	6.5	31.9	21.2	12.5	66.2
mid-1997	58.7	59.0	6.0	34.9	21.1	11.1	67.7
end-1997	58.4	60.6	6.3	33.1	20.1	11.8	68.1
Malaysia							
mid-1996	20.1	49.7	4.1	46.1	28.1	11.4	60.5
end-1996	22.2	50.3	3.2	46.5	29.3	9.0	61.8
mid-1997	28.8	56.4	2.1	41.4	36.4	6.4	57.1
end-1997	27.5	53.1	3.3	43.6	35.8	6.3	57.8
Philippines							
mid-1996	10.8	55.1	4.9	40.0	32.0	25.4	42.6
end-1996	13.3	58.2	4.3	37.5	39.5	20.5	40.0
mid-1997	14.1	58.8	2.3	38.9	38.9	13.1	48.0
end-1997	19.7	60.4	2.2	37.4	45.3	12.3	42.4
Thailand							
mid-1996	69.4	68.9	5.9	25.2	40.3	3.1	56.4
end-1996	70.1	65.2	6.9	28.0	36.9	3.2	59.6
mid-1997	69.4	65.7	6.6	27.7	37.6	2.8	59.5
end-1997	58.8	65.9	7.1	27.0	30.2	3.0	66.6
Other							
mid-1996	100.2	58.1	6.4	35.5	42.2	13.5	44.1
end-1996	105.9	56.1	6.3	37.7	41.1	12.8	45.9
mid-1997	115.0	58.5	4.9	36.5	43.1	10.8	46.0
end-1997	122.4	57.8	5.0	37.2	41.7	9.3	48.9

Source: Bank for International Settlements.

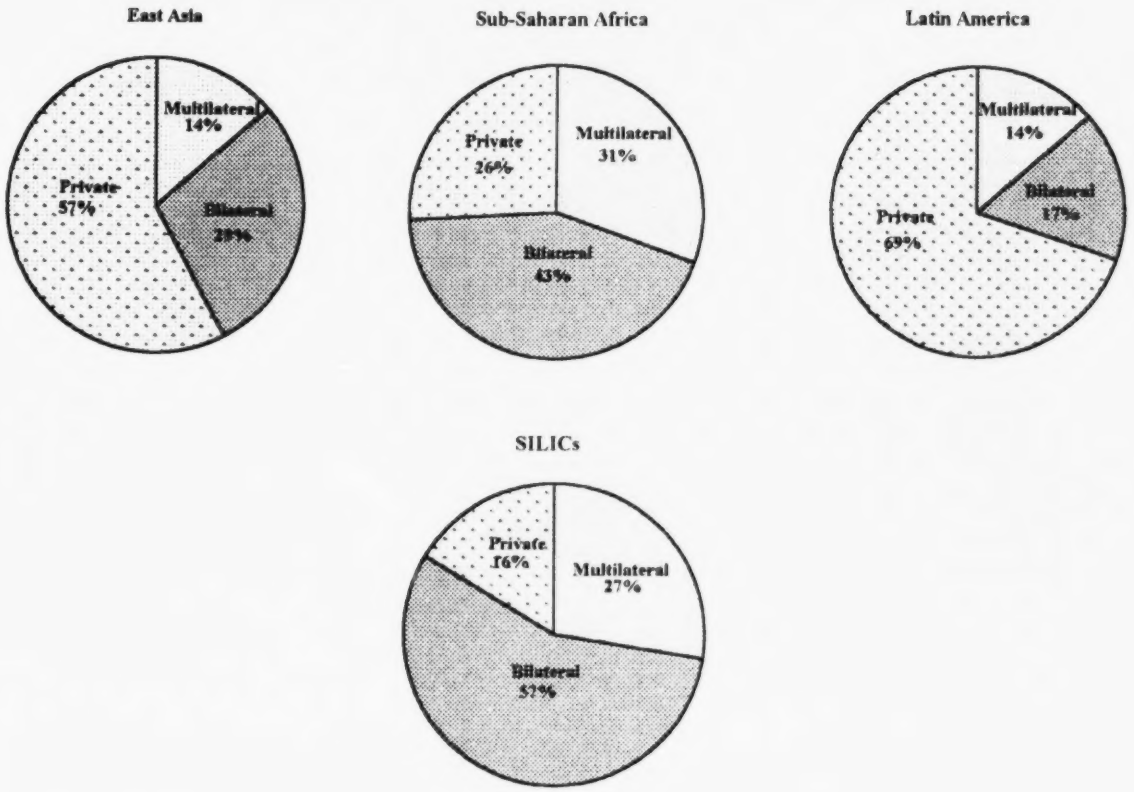
Table 6

Distribution of loans from BIS reporting banks, selected Latin American countries

Positions vis-à-vis	Consolidated cross-border claims in all currencies and local claims in non-local currencies						
	Total (*billions of US dollars*)	Distribution by maturity			Distribution by sector		
		Up to and including one year	Over one year up to two years	Over two years	Banks	Public sector	Non-bank private sector
		(percentage of total consolidated claims)					
Group total							
mid-1996	220.8	53.1	5.8	41.1	24.5	28.9	46.4
end-1996	242.4	53.7	6.0	40.4	24.2	27.9	47.7
mid-1997	251.1	52.3	3.9	43.8	23.7	25.6	50.5
end-1997	283.0	54.8	4.4	40.8	26.0	21.2	52.6
Argentina							
mid-1996	39.4	53.4	6.5	40.2	18.2	26.6	55.2
end-1996	44.8	56.3	6.7	37.0	19.6	23.6	56.8
mid-1997	44.4	53.8	3.7	42.5	19.7	22.7	57.7
end-1997	60.4	57.2	5.3	37.6	20.2	18.6	61.2
Brazil							
mid-1996	63.2	57.7	4.8	37.5	30.5	25.2	44.2
end-1996	67.9	63.0	4.7	32.3	30.9	26.3	42.8
mid-1997	71.1	62.2	3.1	34.7	30.8	22.9	46.2
end-1997	76.3	64.1	3.5	32.3	35.5	19.2	45.1
Chile							
mid-1996	13.5	57.7	6.3	36.0	24.9	12.0	63.1
end-1996	15.2	51.2	6.0	42.7	24.4	11.1	64.4
mid-1997	17.6	43.3	3.8	52.8	16.8	9.8	73.3
end-1997	21.2	49.8	5.9	44.3	17.0	8.7	74.3
Mexico							
mid-1996	57.0	47.8	6.3	45.9	22.3	36.6	41.1
end-1996	60.1	44.7	6.7	48.7	19.5	37.1	43.4
mid-1997	62.1	45.5	4.3	50.2	18.8	35.6	45.5
end-1997	61.8	44.6	4.1	51.3	22.0	30.1	47.9
Venezuela							
mid-1996	11.0	22.7	8.2	69.1	5.0	53.4	41.6
end-1996	11.1	28.4	6.6	65.0	7.2	51.0	41.8
mid-1997	12.1	29.9	3.5	66.7	10.8	50.2	38.8
end-1997	12.2	38.4	4.3	57.3	13.6	43.2	43.2
Other							
mid-1996	36.7	60.4	5.3	34.3	30.1	24.6	44.3
end-1996	43.3	56.1	6.1	37.8	29.4	21.8	47.7
mid-1997	43.7	54.2	4.8	41.0	29.6	18.4	51.3
end-1997	51.1	56.2	4.5	39.3	30.3	16.3	52.8

Source: Bank for International Settlements.

Composition of long-term debt, by region, 1997[a]
(Percentage)



Source: UNCTAD, based on World Bank data in *Global Development Finance*, 1998.

[a] For heavily indebted poor countries, data for long-term debt refers to 1996.